

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



September 30, 2002

Regulation Package #0302-08

CDSS MANUAL LETTER NO. CCL-02-03

TO: HOLDERS OF THE COMMUNITY CARE LICENSING MANUAL, TITLE 22, DIVISION 6,
CHAPTER 7.5, FOSTER FAMILY HOMES

Regulation Package #0302-08**Effective 7/1/02**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/FosterFami_629.htm.

These Foster Family Homes emergency regulations implement the provisions of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). This legislation ensures that California is in continuing compliance with the federal Adoptions and Safe Families Act (ASFA) of 1997, Public Law 105-89. The legislation clarifies the ongoing and compliance requirements of the Department with regards to ASFA, to employ the same standards to all foster family homes. Incidental to this, modifications of Personal Rights are being made pursuant to AB 899, (Chapter 683, Statutes of 2001). These emergency regulations are equally protective, less restrictive and more user friendly than current regulations.

It is California's position that licensing and approval of homes have required the same core health and safety standards prior to issuance of a license or approval of a foster family home since 1998. The legislative bases are found in AB 1544 (Chapter 793, Statutes of 1997), Senate Bill (SB) 645 (Chapter 949, Statutes of 1998), and AB 2773 (Chapter 1056, Statutes of 1998). Since that time, California law has required compliance with the same core health and safety standards for all foster family homes.

California core licensing/approval standards consist of four major areas: criminal records clearance, caregiver qualifications, safety of the physical environment and personal rights. These core health and safety requirements have not changed; however, they have undergone non-substantive modification to more clearly show the consistency with ASFA.

To ensure continuous compliance with ASFA, the Title 22 Foster Family Homes regulations have been rewritten and renumbered. Further, throughout these proposed regulations the terms "licensee" is replaced with "caregiver" and "facility" with "home." Cross references are updated where necessary. The change in language supports the Department's position of modification to user friendly language. The language is more generic in nature and has been used to address licensees, and apply to relatives and the non-related extended family members using Title 22 as a cross reference. In addition the language was clarified so that it would be consistent with ASFA terminology.

These regulations also clarify that relative and non-related extended family member's homes approved for placements must meet the same standards as licensed homes. This is consistent with ASFA and ongoing practice. ASFA also requires a state authority to be responsible for establishing and maintaining standards for foster family homes and applying these standards to any home that receives the Title IV-E funds whether licensed or approved.

These regulations were adopted on an emergency basis effective July 1, 2002 and were considered at the Department's public hearings held on August 12, 13, and 14, 2002.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Community Care Licensing changes was Manual Letter No. CCL-02-02. The latest prior manual letter containing Foster Family Homes regulation changes was Manual Letter No. CCL-01-14.

Please replace the entire manual with the attached pages.

Attachments

JTP

Manual of Policies and Procedures
COMMUNITY CARE LICENSING DIVISION

FOSTER FAMILY HOMES

Title 22
Division 6
Chapter 9.5



STATE OF CALIFORNIA
Gray Davis, Governor
HEALTH AND HUMAN SERVICES AGENCY
Grantland Johnson, Secretary
DEPARTMENT OF SOCIAL SERVICES
Rita Saenz, Director

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July 2002

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This Users' Manual is issued as an operational tool.

This Manual contains:

- a) Regulations adopted by the California Department of Social Services (CDSS) for the governance of its agents, licensees, and/or beneficiaries
- b) Regulations adopted by other State Departments affecting CDSS programs
- c) Statutes from appropriate Codes which govern CDSS programs; and
- d) Court decisions
- e) Operational standards by which CDSS staff will evaluate performance within CDSS programs.

Regulations of CDSS are printed in gothic type as is this sentence.

Handbook material, which includes reprinted statutory material, other department's regulations and examples, is separated from the regulations by double lines and the phrases "**HANDBOOK BEGINS HERE**", "**HANDBOOK CONTINUES**", and "**HANDBOOK ENDS HERE**" in bold print. Please note that both other department's regulations and statutes are mandatory, not optional.

In addition, please note that as a result of the changes to a new computer system revised language in this manual letter and subsequent community care licensing manual letters will now be identified by graphic screen.

Questions relative to this Users' Manual should be directed to your usual program policy office.

Article 1. GENERAL REQUIREMENTS, DEFINITIONS, AND FORMS**89200 GENERAL****89200**

- (a) The caregiver shall ensure compliance with all applicable law and regulations.
- (b) The provisions of Chapter 1, General Licensing Requirements shall not apply to Chapter 9.5, Foster Family Homes.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1502, 1530, 1530.5 and 1531, Health and Safety Code.

89201 DEFINITIONS**89201**

The following definitions shall apply whenever the terms are used throughout this chapter.

- (a)
 - (1) "Adult" means a person who is 18 years of age or older.
 - (2) "Applicant" means any adult who has made application for foster family home license.
 - (3) "Approval Agency" means the child-placing agency that has the responsibility to approve the homes of relative and nonrelative extended family members as meeting the same standards as those set forth in Article 3 of this chapter.
 - (4) "Approved Home" means the home of a relative or nonrelative extended family member that is exempt from licensure and is approved as meeting the same standards as those set forth in Article 3 of this chapter.
 - (5) "Authorized Representative" means any person or entity authorized by law to act on behalf of any child. Such person or entity may include but not be limited to a minor's parent, a legal guardian, a conservator or a public placement agency.
- (b)
 - (1) "Basic Rate" means the rate charged by a home to provide basic services. For SSI/SSP recipients, the basic rate means the established nonmedical out-of-home care rate which includes any exempt income allowance but does not include that amount allotted for the recipient's personal and incidental needs.
 - (2) "Basic Services" means those services required by applicable law and regulation to be provided by the licensee in order to obtain and maintain a community care facility license.
- (c)
 - (1) "California Department of Justice Clearance" means an individual has no felony or misdemeanor convictions, other than a minor traffic violation, reported by the California Department of Justice.

89201 DEFINITIONS (Continued)**89201**

- (2) "Capacity" means the maximum number of persons authorized to be provided care and supervision at any one time in any licensed facility.
- (3) "Care and Supervision" means any one or more of the following activities provided by a caregiver to meet the needs of the children:
 - (A) Assistance in dressing, grooming, bathing and other personal hygiene.
 - (B) Assistance with taking medication, as specified in Section 89475(c).
 - (C) Central storing and/or distribution of medications, as specified in Section 89475(c).
 - (D) Arrangement of and assistance with medical and dental care. This may include transportation.
 - (E) Maintenance of house rules for the protection of children.
 - (F) Supervision of children's schedules and activities.
 - (G) Maintenance and/or supervision of children's cash resources or property.
 - (H) Monitoring food intake or special diets.
 - (I) Providing basic services as defined in Section 89201(b)(2).
- (4) "Caregiver" for the purpose of this chapter means, the licensed/approved individual having the authority and responsibility for the operation of a home.
- (5) "Caregiver's Family" means any relative, as defined in Section 89201(r)(1), or adopted children or persons under guardianship or conservatorship of the caregiver, or the caregiver's spouse, who reside in the home.
- (6) "Cash Resources" means:
 - (A) Monetary gifts.
 - (B) Tax credits and/or refunds.
 - (C) Earnings from employment or workshops.
 - (D) Personal and incidental need allowances from funding sources including but not limited to SSI/SSP.

89201 DEFINITIONS (Continued)**89201**

- (E) Allowances paid to children.
- (F) Any other similar resources as determined by the licensing agency.
- (7) "Child" means a person who is under 18 years of age or a person up to 19 years of age, who meets the requirements of Section 11403 of the Welfare and Institutions Code, who is being provided care and supervision in a foster family home, except where specified otherwise in this chapter.

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code Section 11403 provides:

"A child who is in foster care and receiving aid pursuant to this chapter and who is attending high school or the equivalent level of vocational or technical training on a full-time basis prior to his or her 18th birthday, may continue to receive aid following his or her 18th birthday so long as the child continues to reside in foster care placement, remains otherwise eligible for AFDC-FC payments, and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis and the child may reasonably be expected to complete the educational or training program before his or her 19th birthday. Aid shall be provided such an individual pursuant to this section provided both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, which documents the continued need for out-of-home placement."

HANDBOOK ENDS HERE

- (8) "Child Abuse Central Index" (CACI) means the California Department of Justice maintained statewide, multi-jurisdictional, centralized index of child abuse investigation reports. These reports pertain to alleged incidents of physical abuse, sexual abuse, mental/emotional abuse and/or severe neglect. Each child protection agency (police, sheriff, county welfare and probation departments) is required by law to forward to the California Department of Justice a report of every child abuse incident it investigates, unless an incident is determined to be unfounded.
- (9) "Child Abuse Central Index (CACI) Clearance" means that the California Department of Justice has conducted a name search of the index and the search did not result in a match, or if there is a match the allegation(s) was not substantiated by the Department after independent review and investigation pursuant to Section 1522.1 of the Health and Safety Code.
- (10) "Child with Special Health Care Needs" means a child who is under 18 years of age or a person up to 22 years of age or younger, who meets the requirements of Section 17710(a) of the Welfare and Institutions Code and all of the following conditions:
 - (A) Has a medical condition that requires specialized in-home health care and

89201 DEFINITIONS (Continued)**89201**

(B) Is one of the following:

1. A child who has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code.
2. A child who has not been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code but who is in the custody of the county welfare department.
3. A child with a developmental disability who is receiving services and case management from a regional center.

HANDBOOK BEGINS HERE

(C) Welfare and Institutions Code Section 17710(a) provides:

"Child with special health care needs' means a child, or a person who is 22 years of age or younger who is completing a publicly funded education program, who has a condition that can rapidly deteriorate resulting in permanent injury or death or who has a medical condition that requires specialized in-home health care, and who either has been adjudged a dependent of the court pursuant to Section 300, has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center."

HANDBOOK ENDS HERE

(11) "Completed Application" means:

- (A) The applicant has submitted and the licensing agency has received, all required materials, including an approved fire clearance, if applicable, from the local fire authority having jurisdiction, a CACI clearance, and a California criminal record clearance or exemption, or evidence of compliance with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code on the applicant and any other individuals specified in Section 89219.
 - (B) The licensing agency has completed a site visit to the facility.
- (12) "Conservator" means a person appointed by the Superior Court pursuant to the provisions commencing with Section 1800 of the Probate Code or Section 5350 of the Welfare and Institutions Code, to care for the person, or estate, or person and estate, of another.

89201 DEFINITIONS (Continued)**89201**

- (13) "Control of Property" means the legal right to enter, occupy, and maintain the operation of the home as verified by documentation provided upon request of the Department.
- (14) "Conviction" means:
- (A) A criminal conviction in California; or
 - (B) Any criminal conviction of another state, federal, military or other jurisdiction, which if committed or attempted in California, would have been punishable as a crime in California.
- (15) "Criminal Record Clearance" means an individual has a California Department of Justice clearance and an FBI clearance or evidence of compliance with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code.
- (d) (1) "Deficiency" means any failure to comply with any provision of the Community Care Facilities Act commencing with Section 1500 of the Health and Safety Code and/or regulations adopted by the Department pursuant to the Act.
- (2) "Department" is defined in Section 1502(b) of the Health and Safety Code as the State Department of Social Services.
- (3) "Director" is defined in Section 1502(c) of the Health and Safety Code as the Director of the State Department of Social Services.
- (4) "Disability" means a condition that makes a child developmentally disabled, mentally disordered or physically handicapped, and for whom special care and supervision is required as a result of his/her condition.
- (5) "Documented Alternative Plan (DAP)" means a written plan, reviewed and approved by the licensing or approval worker on a case-by-case basis as a plan that is an alternative, but equally protective manner of meeting the intent of specified regulations in Article 3 of this chapter.
- (e) (1) "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department, including any officer, employee or agent of a county or other public agency authorized by the Department to license homes.
- (2) "Evidence of Caregiver's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary or a letter from the attending physician or coroner's office verifying the caregiver's death.

89201 DEFINITIONS (Continued)**89201**

- (3) "Exception" means a child-specific, nontransferable, written authorization issued by the licensing agency that approves an equally protective manner of complying with the intent of a specific regulation(s) and which are based on documentation of the unique needs or circumstances of a specific child placed in the home. Exceptions are granted for a particular child and cannot be transferred or applied to other children or other homes or caregivers. Exception does not apply to Article 3 of this chapter.
- (4) "Exemption" means the granting of an exemption to the disqualification for a license, employment or presence in a home, as allowed under Section 1522(g) of the Health and Safety Code, for an individual who does not have a criminal records clearance. An exemption is not transferable, except as provided in Section 89219.1(p).

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- (A) Health and Safety Code Section 1522(g)(1) reads in part:

"After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for a license, special permit, or certificate of approval pursuant to subdivision (d), or for employment, residence, or presence in a community care facility as specified in subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c)..."

HANDBOOK ENDS HERE

- (f) (1) "Family Health Care" means health care which does not require the skills of qualified technical or professional personnel and is provided to a child by the foster parent in accordance with Section 89475, Health Related Services. When these requirements are met, the family health care that may be provided includes, but is not limited to the following:
 - (A) Routine administration of medications such as the administration of suppositories, ointments, lotions, pills, enemas or medications given by liquid medication dispenser, puffer, dropper or nebulizer.
 - (B) Changing ostomy or indwelling urinary catheter bags.
 - (C) Urine and blood glucose testing using a monitoring kit approved for home use.
 - (D) Heart and apnea monitoring when it is simply the case of providing stimulation to the infant/child when the cardiac or respiratory rate falls below a specified rate and not a matter of interpreting a monitor pattern with the intervention based on that interpretation.

89201 DEFINITIONS (Continued)**89201**

- (E) Assistance with procedures self-administered by older children free of severe mental or physical disabilities such as insulin injection and oxygen administration.
- (F) Assistance with other procedures such as injections where not otherwise prohibited by law.
- (2) "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions, other than a minor traffic violation, reported by the FBI.
- (3) "Foster Family Home" means any home where the caregiver, in their own home, provides care and supervision for six or fewer foster children and the caregiver has control of the property. This also includes sibling care for up to eight children provided the requirements of Section 1505.2 of the Health and Safety Code are met.

HANDBOOK BEGINS HERE**(A) Health and Safety Code Section 1505.2**

A licensing agency may authorize a foster family home to provide 24-hour care for up to eight foster children, for the purpose of placing siblings or half siblings together in foster care. This authorization may be granted only if all of the following conditions are met:

- (A) The foster family is not a specialized foster care home as defined in subdivision (i) of Section 17710 of the Welfare and Institutions Code.
- (B) The home is sufficient in size to accommodate the needs of all children in the home.
- (C) For each child to be placed, the child's placement social worker has determined that the child's needs will be met and has documented that determination.

The licensing agency may authorize a foster family home to provide 24-hour care for more than eight children only if the foster family home specializes in the care of sibling groups, that placement is solely for the purpose of placing together one sibling group that exceeds eight children, and all of the above conditions are met.

HANDBOOK ENDS HERE

- (g) (1) "Guardian" means a person appointed by the Superior Court pursuant to the provisions commencing with Section 1500 of the Probate Code or Section 360 of the Welfare and Institutions Code to care for the person, or estate, or the person and estate, of another.

89201 DEFINITIONS (Continued)**89201**

- (h) (1) "Health Care Professional" means a physician or an individual who is licensed or certified under Division 2 of the Business and Professions Code to perform the necessary client care procedures prescribed by a physician. Such health care professionals include the following: Registered Nurse, Public Health Nurse, Licensed Vocational Nurse, Psychiatric Technician, Physical Therapist, Occupational Therapist and Respiratory Therapist.
- (2) "Home" means for the purpose of this chapter a Foster Family Home.
- (i) (1) "Independent Living Program (ILP)" means the program authorized under 42 USC Section 677 of the Social Security Act for services and activities to assist children age 16 or older in foster care to make the transition from foster care to independent living.
- (2) "Individualized Health Care Plan" means the written plan developed by an individualized health care plan team and approved by the team physician, or other health care professional designated by the physician to serve on the team, for the provision of specialized in-home health care.
- (3) "Individualized Health Care Plan Team" means those individuals who develop an individualized health care plan for a child with special health care needs, which must include the child's primary care physician or other health care professional designated by the physician, any involved medical team, the county social worker or regional center caseworker, and any health care professional designated to monitor the specialized in-home health care provided to the child pursuant to the child's individualized health care plan. The individualized health care plan team may include, but shall not be limited to, a public health nurse, representatives from the California Children's Services Program or the Child Health and Disability Prevention Program, regional centers, the county mental health department and where reunification is the goal, the parent or parents, if available. In addition, the individualized health care plan team may include the prospective specialized caregiver, but that caregiver shall not participate in any team determination required by Sections 89510.1(a)(1)(C), and 89565.1(a)(1)(B).
- (4) "Infant" means a child under two years of age.
- (j) (Reserved)
- (k) (Reserved)
- (l) (1) "Licensing Agency" means the State Department of Social Services or any state, county or other public agency authorized by the Department to assume specified licensing responsibilities pursuant to Section 1511 of the Health and Safety Code.
- (2) "Licensed Home" means a home that is licensed by Community Care Licensing in accordance with the standards set forth in Article 3 of this chapter. The license cannot be transferred to another person or location.
- (m) (1) "Medical Conditions Requiring Specialized In-Home Health Care" means provided that care may be safely and adequately administered in the home:

89201 DEFINITIONS (Continued)**89201**

- (A) A dependency upon one or more of the following when, but for the fact that trained foster parents may provide these services under Section 17736 of the Welfare and Institutions Code, the skills of qualified technical or professional personnel would be required: Enteral feeding tube, total parenteral feeding, a cardiorespiratory monitor, intravenous therapy, a ventilator, oxygen support, urinary catheterization, renal dialysis, ministrations imposed by tracheostomy, colostomy, ileostomy, ileal conduit or other medical or surgical procedures or special medication regimens, including injection and intravenous medication; or
- (B) Conditions such as AIDS, premature birth, congenital defects, severe seizure disorders, severe asthma, bronchopulmonary dysplasia, and severe gastroesophageal reflux when, because his/her condition could rapidly deteriorate causing permanent injury or death, the child requires in-home health care other than, or in addition to, family health care.
- (2) "Medical Professional" means a Health Care Professional.
- (n) (1) "Needs and Services Plan" means a time-limited, goal-oriented written plan which identifies the specific needs of an individual child. This plan shall contain at a minimum the information required in Section 89370 and information on the background and needs of the child that the placing social worker deems necessary for the effective care of the child. This may include a social work assessment, medical reports, educational assessment, and identification of special needs when necessary.
- (2) "Nonrelative Extended Family Member" means any adult caregiver who has an established familial or mentoring relationship with the child pursuant to Section 362.7 of the Welfare and Institutions Code.

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- (A) Welfare and Institutions Code Section 362.7 provides:

"When the home of a nonrelative extended family member is being considered for placement of a child, the home shall be evaluated, and approval of that home shall be granted or denied, pursuant to the same standards set forth in the regulations for the licensing of foster family homes which prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

"A 'nonrelative extended family member' is defined as any adult caregiver who has an established familial or mentoring relationship with the child. The county welfare department shall verify the existence of a relationship through interviews with the parent and child or with one or more third parties. The parties may include relatives of the child, teachers, medical professionals, clergy, neighbors, and family friends."

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89201 DEFINITIONS (Continued)**89201**

- (3) "Nonambulatory Person" means a person as defined in Section 13131 of the Health and Safety Code.
- (A) A person who uses postural supports as specified in Section 89372(a)(7), is nonambulatory.
- (B) A person is not deemed nonambulatory solely because he/she is deaf, blind or prefers to use a mechanical aid.

HANDBOOK BEGINS HERE

- (C) Health and Safety Code Section 13131 provides:

"Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984 who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative."

HANDBOOK ENDS HERE

- (o) (Reserved)

- (p) (1) "Physical Restraining Device" means any physical or mechanical device, material, or equipment attached or adjacent to a child's body which the child cannot remove easily and which restricts the child's freedom of movement. Restraining devices include leg restraints, arm restraints, soft ties or vests, wheel chair safety bars, and full length bedrails.
- (2) "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.
- (3) "PRN Medication" (pro re nata) means any nonprescription or prescription medication which is to be taken as needed.

89201 **DEFINITIONS (Continued)****89201**

- (4) "Provision" or "Provide" means whenever any regulation requires that provision be made for or that there be provided any service, personnel, or other requirement, the caregiver shall do so directly or present evidence to the licensing agency that the requirement has been met by some other means.
- (q) (Reserved)
- (r) (1) "Rehabilitation" means that period of time, together with any education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service, which assist an individual in reestablishing good character.
- (2) "Relative" means:
- (A) A person related to the child by birth or adoption within the fifth degree of kinship who, regardless of whether the parent's rights to the child have been terminated or relinquished, is one of the following:
1. Parent (mother, father) sibling (brother, sister), half-sibling (half-brother, half-sister), nephew, niece, uncle, aunt, first cousin, first cousin once removed, or any such person of a preceeding generation denoted by the prefixes grand, great, great-great, or great-great-great.
- (B) Stepfather, stepmother, stepbrother or stepsister; or
- (C) The spouse of any person named in (A) or (B) above, even after the marriage has been terminated by death or dissolution.
- (s) (1) "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health or safety of any child in a home.
- (2) "Social Worker" means a person who has a graduate degree from an accredited school of social work.
- (3) "Specialized Foster Family Home" means a licensed foster family home which provides specialized in-home health care to children pursuant to Section 1507 of the Health and Safety Code and Section 17710(i) of the Welfare and Institutions Code.
- (4) "Specialized In-Home Health Care" means health care as defined in Section 17710(h) of the Welfare and Institutions Code, other than family health care, identified by the child's primary physician as appropriately administered in the home by a health care professional or by a foster parent trained by health care professionals.

89201 DEFINITIONS (Continued)**89201**

- (5) "SSI/SSP" means the Supplemental Security Income/State Supplemental Program which is a federal/state program that provides financial assistance to aged, blind and/or disabled residents of California.
- (t) (1) "Transitional Independent Living Plan (TILP)" means the portion of the child's case plan that describes the programs and services, including employment and savings, as appropriate, based on an assessment of the individual child's skills and abilities, that will help the child prepare for transition from foster care to independent living.
- (u) (1) "Unlicensed Community Care Facility" means a facility as defined in Section 1503.5 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (A) Health and Safety Code Section 1503.5(a) provides in pertinent part:

A facility shall be deemed to be an "unlicensed community care facility" and "maintained and operated to provide non-medical care" if it is unlicensed and not exempt from licensure and any one of the following conditions is satisfied:

- (1) The facility is providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (2) The facility is held out as or represented as providing care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (3) The facility accepts or retains residents who demonstrate the need for care or supervision, as defined by this chapter or the rules and regulations adopted pursuant to this chapter.
- (4) The facility represents itself as a licensed community care facility.

HANDBOOK ENDS HERE

- (B) A home which is "providing care and supervision" as defined in Section 89201(c)(2) includes, but is not limited to, one in which an unemancipated minor has been placed for temporary or permanent care.
- (C) A home which is "held out as or represented as providing care and supervision" includes, but is not limited to:

89201 **DEFINITIONS (Continued)****89201**

- (1) A home which has been revoked or denied as follows:
 - a. a license, if licensed as a foster family home; or
 - b. an approval, if approved as a nonrelative extended family member home; or
 - c. a certificate, if certified by a Foster Family Agency as a foster home; and,
 - d. the individual continues to provide care for the same or different clients with similar needs.
- (2) A home where change of ownership has occurred and the same clients are retained.
- (3) A licensed home that moves to a new location.
- (4) A home which advertises as providing care and supervision.
- (D) A home which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limit to a home which houses unemancipated minors, even though the home is providing board and room only, or board only, or room only.
- (v) (1) "Volunteer" means a person who provides gratuitous, non-essential services and does not replace required staff.
- (w) (1) "Waiver" means a home-wide nontransferable written authorization issued by the licensing agency that approves an equally protective manner of complying with the intent of a specific regulation which is based on a demonstration of the unique needs or circumstances of the home. Waiver does not apply to Article 3 of this chapter.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill 1695 (Chapter 653, Statutes of 2001). Reference: Sections 319(d), 362.7, 11400, 11403, 16522, 17710, 17710(a), (g), (h) and (i), 17731, 17731(c) and 17736(a), Welfare and Institutions Code; and Sections 1337, 1500, 1501, 1502, 1503, 1503.5, 1505, 1505.2, 1507, 1507.5, 1520, 1522, 1522.1, 1524, 1524(e), 1526, 1526.5, 1527, 1530, 1530.5, 1530.6, 1531, 1531.5, 1533, 1534, 1536.1, 1537, 1550, 1551, 1558, 1558.1, 1559.110, 1727(c), 11834.11, and 13131, Health and Safety Code.

89202 DEFINITIONS - FORMS**89202**

The following forms, which are incorporated by reference, apply to the regulations in Title 22, Division 6, Chapter 9.5 (Foster Family Homes).

- (a) LIC 198 (2/01) – Child Abuse Central Index Check for County Licensed Facilities.
- (b) LIC 198A (3/99) – Child Abuse Central Index Check for State Licensed Facilities.
- (c) LIC 508 (3/02) – Criminal Record Statement.
- (d) LIC 9182 (4/02) – Criminal Background Clearance Transfer Request.
- (e) LIC 9188 (3/02) – Criminal Record Exemption Transfer Request.

NOTE: Authority cited: Section 1530, Health and Safety Code and Section 21 of the Assembly Bill 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1522 and 1522.1, Health and Safety Code.

Article 2. ADMINISTRATIVE**89205 LICENSE REQUIRED****89205**

Unless a home is exempt from licensure as specified in Section 89207, no individual shall operate, establish, manage, conduct or maintain a foster family home, or hold out, advertise or represent by any means to do so, without first obtaining a current valid license from the licensing agency.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1503, 1503.5, 1505, 1508, 1509, 1513, 1524, 1531, 1536.1, 1540, 1540.1, 1541, and 1547, Health and Safety Code.

89206 OPERATION WITHOUT A LICENSE**89206**

- (a) An unlicensed facility as defined in Section 89201u.(1), is in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code unless exempted from licensure pursuant to Section 1505 of the Health and Safety Code or Section 89207 of this chapter.
- (b) If the facility is alleged to be in violation of Sections 1503.5 and/or 1508 of the Health and Safety Code, the licensing agency shall conduct a site visit, and/or an evaluation of the home pursuant to Section 1533 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Section 1533 provides in pertinent part:

Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

HANDBOOK ENDS HERE

- (c) If the home is operating without a license, the licensing agency shall issue a notice of operation in violation of law and shall refer the case for criminal prosecution and/or civil proceedings.

89206 OPERATION WITHOUT A LICENSE (Continued)**89206**

- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 89255 and Section 1547 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Section 1547 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1503.5 or 1508, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty ... shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

HANDBOOK ENDS HERE

- (e) Sections 89206(c) and (d) shall be applied pursuant to Section 1549 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Section 1549 of the Health and Safety Code states:

The civil, criminal, and administrative remedies available to the department pursuant to this article are not exclusive and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

HANDBOOK ENDS HERE

- (f) The licensing agency shall notify the appropriate placement or protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the clients' health and safety.
- (2) The home does not submit an application for licensure within 15 calendar days of being served a notice of operation in violation of the law.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1503, 1503.5, 1505, 1508, 1524, 1533, 1536.1, 1538, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

89207 EXEMPTION FROM LICENSURE**89207**

- (a) The provisions of this chapter shall not apply to those facilities and arrangements specified in Section 1505 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code 1505 states in pertinent part:

This chapter does not apply to any of the following...

- (a) ...
- (b) ...
- (c) Any juvenile placement facility approved by the California Youth Authority or any juvenile hall operated by a county.
- (d) Any place in which a juvenile is judicially placed pursuant to subdivision (a) of Section 727 of the Welfare and Institutions Code.
- (e) Any child day care facility, as defined in Section 1596.750.
- (f) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or denomination.
- (g) Any school dormitory or similar facility determined by the Department.
- (h) Any house, institution, hotel, homeless shelter, or other similar place that supplies board and room only, or room only, or board only, provided that no resident thereof requires any element of care as determined by the Director.
- (i) Recovery houses or other similar facilities providing a group living arrangement for persons recovering from alcoholism or drug addiction which provides no care or supervision.
- (j) Any alcoholism or drug abuse recovery or treatment facility as defined by Section 11834.11.

89207 EXEMPTION FROM LICENSURE (Continued)**89207**

- (k) Any arrangement for the receiving and care of persons by a relative or any arrangement for the receiving and care of persons from only one family by a close friend of the parent, guardian, or conservator, if the arrangement is not for financial profit and occurs only occasionally and irregularly, as defined by regulations of the department. For purposes of this chapter, arrangements for the receiving and care of persons by a relative shall include relatives of the child for the purpose of keeping sibling groups together.
- (l)
 - (1) Any home of a relative caregiver of children who are placed by a juvenile court, supervised by the county welfare or probation department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.
 - (2) Any home of a nonrelative extended family member, as described in Section 362.7 of the Welfare and Institutions code, providing care to children who are placed by a juvenile court, supervised by the county welfare or probations department, and the placement of whom is approved according to subdivision (d) of Section 309 of the Welfare and Institutions Code.
- (m) ...
- (n) Any facility in which only Indian children who are eligible under the federal Indian Child Welfare Act, Chapter 21 (commencing with Section 1901) of Title 25 of the United States Code are place and that is one of the following:
 - (1) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.
 - (2) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.
- (o) ...
- (p) Any similar facility determined by the director.

HANDBOOK ENDS HERE

- (b) The provisions of this chapter shall not apply to any school dormitory or similar facility where all of the following conditions exist:
 - (1) The school is certificated/registered by the State Department of Education.
 - (2) The school and the school dormitory are on the same grounds.
 - (3) All children accepted by the school are six years of age or older.

89207 EXEMPTION FROM LICENSURE (Continued)**89207**

- (4) The program operates only during normal school terms unless the academic program runs year-round.
 - (5) The school's function is educational only.
 - (6) The school program is not designated as providing rehabilitative or treatment services.
 - (7) The school's function does not promote intent to provide community care services, and the family does not accept children who are in need of such services, including but not limited to children with developmental disabilities, mental disorders or physical handicaps; juveniles declared dependents of the court under Welfare and Institutions Code Section 300; and juveniles declared wards of the court under Welfare and Institutions Code Sections 601 and 602.
 - (8) The facility does not receive any public funds designated for care including but not limited to AFDC-FC and SSI/SSP. The facility shall be permitted to receive public funds intended for educational programs.
 - (9) No public or private agency, including but not limited to county welfare departments and probation offices, provides social services to children in the facility.
- (c) The provisions of this chapter shall not apply to the following additional situations:
- (1) Any care and supervision of persons from only one family by a close friend of the parent, guardian or conservator, provided that such arrangement is not for financial profit and does not exceed 10 hours per week.
 - (A) Provision of longer hours of care shall not be precluded when provided for brief periods of time for reasons, including but not limited to family emergencies, vacation, and military leave.
 - (2) Any home exclusively used by a licensed or exempt Foster Family Agency and issued a certificate of approval by that agency.
 - (A) Such families shall not be required to obtain a license, but shall be in compliance with all other requirements set forth in this division. The home's compliance with requirements shall be monitored through and assured by the Foster Family Agency. For the purposes of this section, an exclusive-use facility shall mean a nonlicensed residential facility that has been approved by a licensed Foster Family Agency as conforming to the regulations pertaining to the Family Home Category. A home in the exclusive use of a licensed Foster Family Agency shall accept only those children placed by that agency which approved the home.

89207 EXEMPTION FROM LICENSURE (Continued)**89207**

- (3) A home which meets all of the following criteria:
 - (A) approved by a licensed adoption agency, or the Department, for the adoptive placement of a child, and
 - (B) the child is legally free for adoption, and
 - (C) the agency or the Department is providing supervision of the placement pending finalization of the adoption.
- (4) A home which meets all of the following criteria:
 - (A) placement for adoption by a birth parent, and
 - (B) a petition for adoption has been filed by the prospective adoptive parents, and is pending, and
 - (C) a final decision on the petition has not been rendered by the court.
- (5) Any care and supervision of persons by a relative, guardian or conservator. A relative, for purposes of this section, shall include individuals as specified in Health and Safety Code Section 1505(k).

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code; Section 17730, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1503, 1503.5, 1505, 1505(k) and (l), 1506, 1508, 1524, 1530, 1530.5, 1531, 1536.1, 1540, 1540.1, 1541, and 1547, Health and Safety Code; Sections 226.2, 226.5 and 226.6, Civil Code; and Sections 319(d), 362, 727, 16100, 17710(i), 17736, and 17736(b), Welfare and Institutions Code.

89209 AVAILABILITY OF LICENSE**89209**

- (a) The licensing agency shall have the authority to request review of the license.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1503, and 1531, Health and Safety Code.

89218 APPLICATION FOR LICENSE**89218**

- (a) The licensing agency shall have the authority to require any applicant desiring to obtain a license to file, with the licensing agency, a verified application on forms furnished by the licensing agency and to provide verification and/or documentation as requested by the licensing agency.
- (b) The applicant/caregiver shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency.
- (c) The application and supporting documents shall contain the following:
 - (1) Name and home address of the applicant.
 - (2) Name and address of owner of premises if applicant is leasing or renting.
 - (3) A copy of document(s) that establish that the applicant has control of the property to be licensed.
 - (4) Maximum number of children to be served.
 - (5) Age range, sex and the categories of children to be served, including but not limited to children with disabilities, if any.
 - (6) Information required by Section 1520(d) of the Health and Safety Code.
 - (7) Information required by Section 1520(e) of the Health and Safety Code.
 - (8) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the home is located.
 - (9) Fingerprint cards and/or identifying information as specified in Section 89319.
 - (10) Information required by Section 1522.1 of the Health and Safety Code.
 - (11) Such other information as may be required pursuant to Section 1520(g) of the Health and Safety Code.
 - (12) A statement whether or not the caregiver will handle the children's money, personal property, and/or valuables.

89218 APPLICATION FOR LICENSE(Continued)**89218**

- (d) The application shall be signed by the applicant.
- (e) The application shall be filed with the licensing agency which services the geographical area in which the home is located.
- (f) No application processing fee shall be charged to foster family homes.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1503, 1503.5, 1508, 1520, 1520.3, 1521.5, 1522, 1522.1, 1523.1, 1524, 1525.25, 1525.3, 1530.91, 1531, 1531.4, 1536.1, 1540, 1540.1, 1541, 1547, and 1560, Health and Safety Code.

89219 CRIMINAL RECORD CLEARANCE**89219**

- (a) The licensing Department shall conduct a criminal record review of all individuals specified in Health and Safety Code Section 1522(b) and shall have the authority to approve or deny a foster family home license, or employment, residence, or presence in the home, based upon the results of such review.

HANDBOOK BEGINS HERE

- (1) Section 1522(b) of the Health and Safety Code provides in part:

In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

- (A) Adults responsible for administration or direct supervision of staff.
- (B) Any person, other than a client, residing in the facility.
- (C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or home health aide meeting the requirements of Section 1338.5 or 1736.6, respectively, who is not employed, retained or contracted by the licensee, and who has been certified or re-certified on or after July 1, 1998, shall be deemed to meet the criminal record clearance requirements of this section. A certified nurse assistant and certified home health aide who will be providing client assistance and who fall under this exemption shall provide one copy of his or her current certification, prior to providing care, to the adult community care facility. Nothing in this paragraph restricts the right of the Department to exclude a certified nurse assistant or certified home health aide from a licensed community care facility pursuant to Section 1558.

89219 CRIMINAL RECORD CLEARANCE (Continued)**89219**

- (D) Any staff person, volunteer, or employee who has contact with the clients.

HANDBOOK ENDS HERE

- (b) The following persons are exempt from the requirement to submit fingerprints:

- (1) A medical professional, as defined by the Department in regulations, who holds a valid license or certification from the individual's governing California medical care regulatory entity and who is not employed, retained, or contracted by the caregiver, if all of the following apply:
 - (A) The criminal record of the individual has been cleared as a condition of licensure or certification by the individual's California medical care regulatory entity.
 - (B) The individual is providing time-limited specialized clinical care or services.
 - (C) The individual is providing care or services within the individual's scope of practice.
 - (D) The individual is not a foster family home caregiver or an employee of the home.
- (2) A third-party repair person, or similar retained contractor, if all of the following apply:
 - (A) The individual is hired for a defined, time-limited job.
 - (B) The individual is not left alone with foster children.
 - (C) When foster children are present in the room in which the repairperson or contractor is working, a staff person who has a criminal record clearance or exemption is also present.
- (3) Employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract for a foster child of the facility, and are in the home at the request of that foster child's legal decision maker.
 - (A) The exemption shall not apply to a person who is a foster home caregiver or an employee of the home.

89219 CRIMINAL RECORD CLEARANCE (Continued)**89219**

- (4) Clergy and other spiritual caregivers who are performing services in common areas of the home, or who are advising an individual foster child at the request of, or with the permission of, the foster child or the child's legal decision maker.
 - (A) This exemption shall not apply to a person who is a foster family home caregiver or an employee of the home.
 - (5) Members of fraternal, service and similar organizations who conduct group activities for foster youth, if all of the following apply:
 - (A) Members are not left alone with the foster children.
 - (B) Members do not take foster children from the home.
 - (C) The same group does not conduct such activities more often than once a month.
 - (6) Adult friends and family of the caregiver who come into the home to visit, for a length of time no longer than one month, provided they are not left alone with the children.
 - (7) Parents of a child's friends when the child is visiting the friend's home and the friend, caregiver or both are also present.
 - (8) Nothing in this paragraph shall prevent a caregiver from requiring a criminal record clearance of any individual exempt from the requirements of this section, provided that the individual has foster child contact.
- (c) Prior to the Department issuing a license or special permit to any individual or individuals to operate or manage a foster family home, the applicant and any adults residing in the home shall, unless exempt under Section 89219(b), obtain a California criminal record clearance or exemption, and shall comply with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code.
 - (d) Prior to presence in the home, the individuals specified in (a) shall, unless exempt under 89219(b), obtain a California criminal record clearance or exemption and shall comply with FBI requirements as specified in Section 1522(d)(1)(D) of the Health and Safety Code.

89219 CRIMINAL RECORD CLEARANCE (Continued)**89219****HANDBOOK BEGINS HERE**

- (1) Section 1522(d)(1)(D) of the Health and Safety Code states:

An applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b), shall submit a set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and all persons described in subdivision (b), the department may issue a license, or the foster family agency may issue a certificate of approval, if the applicant, and each person described in subdivision (b), has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure or certification, the department determines that the licensee, certified foster parent, or any person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550 and the certificate of approval revoked pursuant to subdivision (b) of Section 1534. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

HANDBOOK ENDS HERE

- (e) Prior to employment, residence or initial presence in a foster family home, all individuals subject to criminal record review, in order to meet the requirements of Section 89219(c) and (d), shall be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions and arrests for any crime against a child, spousal cohabitant abuse, or for any crime for which the Department cannot grant an exemption. The declaration shall acknowledge and explain criminal convictions and arrests. The declaration shall also acknowledge that his/her continued employment, residence, or presence in the home is subject to approval of the Department.
- (1) A foster family home applicant/caregiver shall submit the fingerprints to the California Department of Justice along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation and shall comply with Section 89219(e), prior to the individual's employment, residence, or initial presence in the home.
- (A) Fingerprints shall be submitted to the California Department of Justice by the caregiver or sent by electronic transmission to the California Department of Justice by a fingerprinting entity approved by the Department.

89219 CRIMINAL RECORD CLEARANCE (Continued)**89219**

- (B) A caregiver's failure to submit fingerprints to the California Department of Justice or to comply with Section 89219(e) shall result in the citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation.
1. The caregiver shall then submit the fingerprints to the California Department of Justice for processing.
- (C) The Department shall notify the caregiver of criminal records clearances and where there is not a clearance, the Department shall notify both the caregiver and the affected individual associated with the facility, in concurrent, separate letters, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
- (f) To continue to be employed, reside, or be present in a home, each individual shall continue to meet the requirements of Sections 89219(c) and (d).
- (g) If the criminal record transcript of any of the individuals specified in Health and Safety Code Section 1522(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300, and an exemption pursuant to Section 80019.1(a) has not been granted, the Department shall take the following actions:
- (1) For initial applicants, denial of the application.
 - (2) For current caregivers, the Department may institute an administrative action, including, but not limited to, revocation of the license.
 - (3) For other individuals, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of license, if the individual continues to provide service and/or reside in the home.

89219 CRIMINAL RECORD CLEARANCE (Continued)**89219****HANDBOOK BEGINS HERE**

(4) Section 243.4 of the Penal Code provides in part:

- (A) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.
- (B) Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.

(5) Section 273a of the Penal Code provides:

- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.
- (B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

(6) Section 273(d) of the Penal Code provides:

Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4 or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.

HANDBOOK CONTINUES

89219 CRIMINAL RECORD CLEARANCE (Continued)**89219**

HANDBOOK CONTINUES

- (7) Section 368 of the Penal Code provides:
- (A) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.
- (B) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.
- (8) Section 1522(d) of the Health and Safety Code provides in part:
- If the applicant or other persons specified in this subdivision have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied. For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.
- (9) Section 1522(e) of the Health and Safety Code provides in part:
- The California Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident or arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client.

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89219 CRIMINAL RECORD CLEARANCE (Continued)**89219**

- (h) A transfer of a criminal record clearance from one state licensed facility to another, or from TrustLine to a state licensed facility may be requested by an individual or a caregiver by providing the following documents to the Department:
- (1) A signed Criminal Background Clearance Transfer Request, LIC 9182.
 - (2) A copy of the individual's valid identification, such as:
 - (A) California driver's license; or
 - (B) California identification card issued by the Department of Motor Vehicles; or
 - (C) Photo identification issued by another state or the United States government if the individual is not a California resident.
 - (3) Any other documentation required by the Department (i.e., LIC 508, Criminal Record Statement and job description).
- (i) The caregiver shall maintain documentation of criminal record clearances or criminal record exemptions of employees and volunteers that require fingerprinting and non-client adults residing in the home.
- (1) Documentation shall be available for inspection by the Department.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 729, Business and Professions Code; Sections 1501.1, 1520, 1522, 1522.01, 1522.04, 1524, 1531, 1558, and 14564, Health and Safety Code; Section 8712, Family Code; 15376, Government Code; and Sections 136.1, 186.22, 187, 190 through 190.4 and 192(a), 203, 206, 207, 208, 209, 209.5, 210, 211, 212, 212.5, 213, 214, 215, 220, 243.4, 261(a), (a)(1), (2), (3), (4) or (6), 262(a)(1) or (4), 264.1, 266, 266c, 266h(b), 266i(b), 266j, 267, 269, 272, 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994], 273d, 285, 286, 288, 288a, 288.2, 288.5(a), 289, 290(a), 311.2(b), (c) or (d), 311.3, 311.10, 311.11, 314(1) or (2), 347(a), 368(b) or (c) if after January 1, 1999, 417(b), 451(a) or (b), 460(a), 186.22 and 518, 647.6 or prior to 1987 former Section 647a, 653f(c), 664/187, 667.5(c)(7), 667.5(c)(8) 667.5(c)(13), 12308, 12309 or 12310, 667.5(c)(14), 207, 208, 209, 209.5 and 210, 667.5(c)(22), 12022.53, Penal Code; and Section 42001, Vehicle Code.

89219.1 CRIMINAL RECORD EXEMPTION**89219.1**

- (a) After a review of the criminal record transcript, the Department may grant an exception from disqualification for a license, employment or presence in a home pursuant to Section 89219(g) if:
- (1) The applicant/caregiver requests an exemption for himself or herself, or
 - (2) The applicant/caregiver requests an exemption in writing for an individual associated with the home, or
 - (3) The applicant/caregiver does not seek an exemption for the affected individual, the affected individual may request an individual exemption in writing, if the conditions set forth in Section 1522(c)(5) of the Health and Safety Code are met; and

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- (A) Section 1522(c)(5) of the Health and Safety Code provides:

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

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- (4) The affected individual presents substantial and convincing evidence satisfactory to the Department that he/she has been rehabilitated and presently is of such good character as to justify being issued or maintaining a license, employment, presence, or residence in a licensed home.
- (b) The Department shall consider factors including, but not limited to, the following as evidence of good character and rehabilitation:
- (1) The nature of the crime.
 - (2) Period of time since the crime was committed and number of offenses.
 - (3) Circumstances surrounding the commission of the crime that would demonstrate that repetition is not likely.
 - (4) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.
 - (5) Granting by the Governor of a full and unconditional pardon.

89219.1 CRIMINAL RECORD EXEMPTION (Continued)**89219.1**

- (6) Character references.
- (7) A certificate of rehabilitation from a superior court.
- (8) Evidence of honesty and truthfulness as revealed in exemption application documents and interviews.
 - (A) Documents include, but are not limited to:
 - 1. A Criminal Record Statement (LIC 508, Criminal Record Statement; and
 - 2. The individual's written statement/explanation of the conviction and the circumstances surrounding the arrest.
- (9) Evidence of honesty and truthfulness as revealed in exemption application interviews and conversations between the individual or others and the Department.
- (c) No exemption shall be granted for a crime that is listed in Section 1522(g) of the Health and Safety Code.

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Section 1522(g) of the Health and Safety Code provides in part:

- (1) Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for any of the following offenses:
 - (A) (i) An offense in Section 220, 243.4, or 264.1, or subdivision (a) of Section 273a, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.
 - (ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7) or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certification of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

HANDBOOK CONTINUES

89219.1 CRIMINAL RECORD EXEMPTION (Continued)

89219.1

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- (B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

Health and Safety Code Section 1522(g)(1) lists or refers to convictions for crimes for which no exemptions are allowed. These crimes are identified below:

1. Penal Code Sections 186.22 and 136.1 – Gang related/Intimidation of witnesses or victims.
2. Penal Code Sections 187, 190 through 190.4 and 192(a) – Any murder/Attempted murder/Voluntary manslaughter.
3. Penal Code Section 203 – Any mayhem.
4. Penal Code Section 206 – Felony torture.
5. Penal Code Sections 207, 208, 209, 209.5, 210 – Kidnapping.
6. Penal Code Sections 211, 212, 212.5, 213, 214 – Any robbery.
7. Penal Code Section 215 – Carjacking.
8. Penal Code Section 220 – Assault with intent to commit mayhem, rape, sodomy or oral copulation.
9. Penal Code Section 243.4 – Sexual battery.
10. Penal Code Section 261(a), (a)(1), (2), (3), (4) or (6) – Rape.
11. Penal Code Section 262(a)(1) or (4) – Rape of a spouse.
12. Penal Code Section 264.1 – Rape in concert.
13. Penal Code Section 266 – Enticing a minor into prostitution.
14. Penal Code Section 266c – Induce to sexual intercourse, etc. by fear or consent through fraud.

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89219.1 CRIMINAL RECORD EXEMPTION (Continued)

89219.1

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15. Penal Code Section 266h(b) – Pimping a minor.
16. Penal Code Section 266i(b) – Pandering a minor.
17. Penal Code Section 266j – Providing a minor under 16 for lewd or lascivious act.
18. Penal Code Section 267 – Abduction for prostitution.
19. Penal Code Section 269 – Aggravated assault of a child.
20. Penal Code Section 272 – Contributing to the delinquency of a minor (must involve lewd or lascivious conduct).
21. Penal Code Sections 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994] – Willfully causing or permitting any child to suffer under circumstances or conditions likely to produce great bodily harm or death.
22. Penal Code Section 273d – Willfully inflicting any cruel or inhuman corporal punishment or injury on a child.
23. Penal Code Section 285 – Incest.
24. Penal Code Section 286 – Sodomy.
25. Penal Code Section 288 – Lewd or lascivious act upon a child under 14.
26. Penal Code Section 288a – Oral copulation.
27. Penal Code Section 288.2 – Felony conviction for distributing lewd material to children.
28. Penal Code Section 288.5(a) – Continuous sexual abuse of a child.
29. Penal Code Section 289 – Genital or anal penetration or abuse by any foreign or unknown object.
30. Penal Code Section 290(a) – All crimes for which one must register as a sex offender including attempts and not guilty by insanity.

HANDBOOK CONTINUES

89219.1 CRIMINAL RECORD EXEMPTION (Continued)

89219.1

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31. Penal Code Section 311.2(b), (c) or (d) – Transporting or distributing child-related pornography.
32. Penal Code Section 311.3 – Sexual exploitation of a child.
33. Penal Code Section 311.4 – Using a minor to assist in making or distributing child pornography.
34. Penal Code Section 311.10 – Advertising or distributing child pornography.
35. Penal Code Section 311.11 – Possessing child pornography.
36. Penal Code Sections 314(1) or (2) – Lewd or obscene exposure of private parts.
37. Penal Code Section 347(a) – Poisoning or adulterating food, drink, medicine, pharmaceutical products, spring, well, reservoir or public water supply.
38. Penal Code Section 368(b) or (c) if after January 1, 1999 – Elder or dependent adult abuse.
39. Penal Code Section 417(b) – Drawing, exhibiting or using a loaded firearm.
40. Penal Code Section 451(a) or (b) – Arson.
41. Penal Code Section 460(a) – First degree burglary.
42. Penal Code Sections 186.22 and 518 – Gang related/Extortion.
43. Penal Code Section 647.6 or prior to 1987 former Section 647a – Annoy or molest a child under 18.
44. Penal Code Section 653f(c) – Solicit another to commit rape, sodomy, etc.
45. Penal Code Sections 664/187 – Any attempted murder.
46. Penal Code Section 667.5(c)(7) – Any felony punishable by death or imprisonment in the state prison for life.

HANDBOOK CONTINUES

89219.1 CRIMINAL RECORD EXEMPTION (Continued)**89219.1**

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- 47. Penal Code Section 667.5(c)(8) – Enhancement for any felony which inflicts great bodily injury.
- 48. Penal Code Section 667.5(c)(13) – Enhancement for violation of Penal Code Section 12308, 12309 or 12310 – exploding or igniting or attempting to explode or ignite any destructive device or explosive with intent to commit murder.
- 49. Penal Code Section 667.5(c)(14) - Any kidnapping – Penal Code Sections 207, 208, 209, 209.5 and 210.
- 50. Penal Code Section 667.5(c)(22) - Any violation of Penal Code Section 12022.53 – Enhancement for listed felonies where use of a firearm.
- 51. Business and Professions Code Section 729 – Felony sexual exploitation by a physician, psychotherapist, counselor, etc.

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- (d) The Department may deny an exemption request if:
 - (1) The caregiver and/or the affected individual fails to provide documents requested by the Department, or
 - (2) The caregiver and/or the affected individual fails to cooperate with the Department in the exemption process.
- (e) The reasons for any exemption granted or denied shall be in writing and kept by the Department.
- (f) The Department may grant a criminal record exemption that places conditions on the individual's continued licensure, and employment or presence in a licensed home.
- (g) An individual shall be permitted to transfer a current criminal record exemption from one state-licensed facility to another provided the exemption has been processed through a state licensing regional office and the following are met:
 - (1) A signed Criminal Background Exemption Transfer Request, LIC 9188.
 - (2) The request is in writing to the Department and includes:
 - (A) A copy of the individual's valid identification, such as:

89219.1 CRIMINAL RECORD EXEMPTION (Continued)**89219.1**

1. California driver's license; or
 2. California identification card issued by the Department of Motor Vehicles, or
 3. Photo identification issued by another state or the United States government if the individual is not a California resident.
- (B) Any other documentation required by the Department (i.e., LIC 508, Criminal Record Statement and job description).
- (h) If the Department denies the individual's request to transfer a conditional criminal record exemption, the Department shall provide the individual with a right to an administrative hearing to contest the Department's decision.
- (i) The Department shall take the following actions if a criminal record exemption is not or cannot be granted:
- (1) For initial applicants, denial of the application.
 - (2) For current caregivers, the Department may institute an administrative action, including, but not limited to, revocation of the license.
 - (3) For current or prospective employees, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the license, if the individual continues to provide services and/or reside in the home.
 - (4) For individuals residing in the home, caregiver or employee, exclusion of the affected individual pursuant to Health and Safety Code Section 1558, and denial of the application or revocation of the licensee, if the individual continues to provide services and/or reside at the home.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 729, Business and Professions Code; Sections 1520, 1522, 1522.01, 1522.04, 1524, 1531, and 14564, Health and Safety Code; Section 15376, Government Code; and Sections 136.1, 186.22, 187, 190 through 190.4 and 192(a), 203, 206, 207, 208, 209, 209.5, 210, 211, 212, 212.5, 213, 214, 215, 220, 243.4, 261(a), (a)(1), (2), (3), (4) or (6), 262(a)(1) or (4), 264.1, 266, 266c, 266h(b), 266i(b), 266j, 267, 269, 272, 273a(a) [or 273a(1) if the conviction was prior to January 1, 1994], 273d, 285, 286, 288, 288a, 288.2, 288.5(a), 289, 290(a), 311.2(b), (c) or (d), 311.3, 311.10, 311.11, 314(1) or (2), 347(a), 368(b) or (c) if after January 1, 1999, 417(b), 451(a) or (b), 460(a), 186.22 and 518, 647.6 or prior to 1987 former Section 647a, 653f(c), 664/187, 667.5(c)(7), 667.5(c)(8), 667.5(c)(13), 12308, 12309 or 12310, 667.5(c)(14), 207, 208, 209, 209.5 and 210, 667.5(c)(22), 12022.53, Penal Code.

89219.2 CHILD ABUSE CENTRAL INDEX**89219.2**

- (a) Prior to the Department issuing a license or special permit for a foster family home, the Department shall conduct a Child Abuse Central Index (CACI) review pursuant to Section 1522.1 of the Health and Safety Code and Section 11170(b)(3) of the Penal Code. The Department shall check the CACI for the applicant(s) and all individuals subject to a criminal record review, pursuant to Section 1522(d) of the Health and Safety Code and shall have the authority to approve or deny a home license, permit, certificate, employment, residence, or presence in the home based on the results of the review.
- (1) The applicant shall submit the Child Abuse Central Index check (LIC 198A) for all individuals required to be checked directly to the California Department of Justice at the same time that the individual's fingerprints are submitted for a criminal background check as required by Section 89219(c).
- (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 89219(f).
- (2) The Department shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (b) Subsequent to licensure, all individuals subject to a criminal record review, pursuant to Section 1522(b) of the Health and Safety Code, shall complete a Child Abuse Central Index check (LIC 198A) prior to employment, residence, or initial presence in the home that cares for children.
- (1) The caregiver shall submit the Child Abuse Central Index checks (LIC 198A) directly to the California Department of Justice with the individual's fingerprints as required by Section 89219(d) prior to the individual's employment, residence or initial presence in the home.
- (A) Individuals who have submitted the Child Abuse Central Index check (LIC 198A) with fingerprints on or after January 1, 1999 need not submit a new check if the individual can transfer their criminal record clearance or exemption pursuant to Section 89219(f) or Section 89219.1(c).
- (2) The Department shall check the CACI pursuant to Section 11170(b)(3) of the Penal Code, and shall investigate any reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not deny a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.

89219.2 CHILD ABUSE CENTRAL INDEX (Continued)**89219.2**

- (3) The Department shall investigate any subsequent reports received from the CACI. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. The Department shall not revoke a license or take any other administrative action based upon a report from the CACI unless the Department substantiates the allegation of child abuse.
- (c) An individual shall be permitted to transfer a current CACI clearance from one state-licensed facility to another in the following manner:
- (1) If the initial CACI (LIC 198A) was submitted prior to January 01,1999, the individual must submit a new CACI (LIC 198A) to be processed through a state licensing regional office; or
 - (2) If the CACI (LIC 198A) was submitted after January 01,1999 the individual's CACI clearance will be transferred along with the transfer of either the criminal record clearance or exemption in accordance with Sections 89219 or 89219.1.

NOTE: Authority cited: Section 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1520, 1522, 1522.01, 1522.1, 1524, 1531, 1558, and 14564, Health and Safety Code; and Section 11170, Penal Code.

89224 WAIVERS AND EXCEPTIONS**89224**

- (a) Unless prior written licensing agency approval is received as specified in (c) below, a caregiver shall maintain continuous compliance with the licensing regulations.
- (b) The licensing agency shall have the authority to waive or grant an exception to a specific regulation(s) if the request demonstrates how the intent of the regulation(s) will be met and under the following circumstances:
- (1) Such waiver or exception shall in no instance be detrimental to the health and safety of any child.
 - (2) The applicant or caregiver shall submit to the licensing agency a written request for a waiver or exception, together with substantiating evidence supporting the request.
 - (3) No waiver or exception, pursuant to this section, shall be granted for any provision of Article 3, under this chapter.
- (c) The caregiver shall retain the Department's written approval or denial of the request in its facility file.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1509, 1525.25 and 1531, Health and Safety Code.

89226	SAFEGUARDS FOR CASH RESOURCES, PERSONAL PROPERTY, AND VALUABLES	89226
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- (a) Cash resources and personal property and valuables of each child shall be separate and intact.
- (b) The caregiver shall maintain accurate records of accounts of cash resources, personal property, and valuables entrusted to his/her care.
- (c) When a child leaves placement in the home, the caregiver shall surrender all of the child's cash resources, personal property, and valuables to the child's authorized representative.
 - (1) The caregiver shall obtain and retain a receipt signed by the authorized representative.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1520, 1558, and 1560, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

89227 APPLICATION REVIEW 89227

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- (a) The licensing agency shall complete the following as part of the application review process:
 - (1) A site visit to the proposed foster family home and a determination that all of the requirements of Article 3 of this chapter have been satisfied, including but not limited to:
 - (A) Review of the ability, willingness, and readiness of the prospective foster parent to meet the varying needs of children.
 - 1. Health and Safety Code Section 1521.5 states:
 - (a) The county welfare director shall, prior to the issuance of any foster family home license, ensure that the county licensing staff, or the placement staff, conducts one or more in-home interviews with the prospective foster parent sufficient to collect information on caregiver qualifications that may be used by the placement agency to evaluate the ability, willingness, and readiness of the prospective foster parent to meet the varying needs of children. The inability of a prospective foster parent to meet the varying needs of children, shall not, in and of itself, preclude a prospective foster parent from obtaining a foster family home license. In counties in which the county has not contracted with the state to license foster family homes, the in-home interview shall be done by the placement agency.

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89227 APPLICATION REVIEW (Continued)

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(b) All in-home interviews required by this section shall be on an in-person basis.

(c) If the in-home interview is conducted by the licensing agency, it shall be a part of the licensing record, and shall be shared with the placement agency pursuant to subdivision (e) of Section 1798.24 of the Civil Code.

(d) The in-home interview required by this section shall be completed no later than 120 days following notification by the licensing agency.

(e) No license shall be issued unless an in-home interview has been conducted as required by this section.

(B) A determination that the applicant has the ability to comply with the provisions of the Community Care Facilities Act and the regulations in this chapter as specified in Section 1520 of the Health and Safety Code.

(C) A determination that the applicant has secured a fire clearance from the State Fire Marshal, if required.

(D) A determination that the home complies with the provisions of the Community Care Facilities Act and the regulations in this chapter.

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(b) If the applicant has not submitted all materials specified in Section 89218 within 90 days of receipt of the application by the licensing agency, the licensing agency shall give written notice to the applicant that the application is incomplete.

(1) If the applicant does not complete the application within 30 days after such notice, the application shall be deemed withdrawn, provided that the licensing agency has not denied or taken action to deny the application.

(2) If the application has been deemed denied, the applicant shall file a new application as required by Section 89218.

(c) The licensing agency shall cease review of any application under the conditions specified in Section 1520.3 of the Health and Safety Code.

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(1) Health and Safety Code Section 1520.3 provides in part:

- "(a) (1) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), or Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.3 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of such revocation. The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.
- "(2) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant previously was issued a certificate of approval by a foster family agency that was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of the revocation.
- "(3) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant was excluded from a facility licensed by the department pursuant to Sections 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease any further review of the application unless the excluded individual has been reinstated pursuant to Section 11522 of the Government Code by the department.
- "(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:
- "(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

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- "(2) In cases where the department informed the applicant of his or her right to petition for a hearing as specified in Section 1526 and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.
- "(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence.
- "(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:
- "(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.
- "(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.
- "(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence."
- "(d) The cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other law.

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- (2) The circumstances and conditions in which the licensing agency may continue to review a previously denied application shall include, but are not limited to, the following:
- (A) A fire clearance previously denied, but now approved;

89227 APPLICATION REVIEW (Continued)**89227**

- (B) A caregiver who did not meet the minimum qualifications, but now fulfills the qualifications; or
 - (C) A person with a criminal record, which was the basis for license denial, is no longer associated with the home.
- (3) This review shall not constitute approval of the application.
 - (4) If cessation of review occurs, the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Section 1520.3 of the Health and Safety Code.

NOTE: Authority cited: Sections 1525, 1526, 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1520, 1520.3, 1521.5, 1523.1, 1524, 1550, and 1558.1, Health and Safety Code.

89228 CAPACITY DETERMINATION**89228**

- (a) The number of children for whom the foster family home is licensed to provide care and supervision shall be determined on the basis of the application review by the licensing agency, which shall take into consideration the following:
- (1) The caregiver's ability to comply with applicable law and regulations.
 - (2) Any other household members including but not limited to children under guardianship or conservatorship, who reside at the home and their individual needs.
 - (3) Homes which accept a minor parent and his/her child(ren) shall have such child(ren) included in the home's licensed capacity.
 - (4) Physical features of the home, including available living space, which are necessary in order to comply with regulations.
- (b) The licensing agency shall be authorized to issue a license for fewer children than is requested when the licensing agency determines that the caregiver's responsibilities to other persons in the home, including persons under guardianship and conservatorship, would preclude provision of the care required by these regulations.
- (c) When the license is issued for fewer children than requested, the caregiver shall be notified in writing of the reasons for the limitation and of the caregiver's right to appeal the decision as specified in Section 89240.
- (d) The licensing agency shall be authorized to restrict care to specific children.
- (1) If care is limited to specific children, the licensing agency shall specify the names of the children in a letter to the caregiver.
 - (2) Except where the limitation is requested by the caregiver, the caregiver shall be notified in writing of the reasons for such limitation and of the caregiver's right to appeal the decision as specified in Section 89240.
- (e) The licensing agency shall have the authority to decrease the existing licensed capacity, with the caregiver's agreement, when there is a change in any of the factors specified in (b) above.
- (1) If the caregiver does not agree to the decrease in capacity, the licensing agency shall have the authority to initiate revocation action as specified in Section 89242.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 11465, Welfare and Institutions Code; and Sections 1501 1501.1, 1505.2, 1507, 1520, 1515.15, 1526.5, 1526.75, 1529.1, 1529.2, 1529.3, 1531, 1531.2, 1533, 1534, 1538, and 1562, Health and Safety Code.

89229	WITHDRAWAL OF APPLICATION	89229
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- (a) An applicant shall have the right to withdraw, in writing, an application.
- (b) The Department must consent in writing to the withdrawal.

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- (1) Health and Safety Code Section 1553 provides in pertinent part:

The withdrawal of an application for a license or a special permit after it has been filed with the state department shall not, unless the state department consents in writing to such withdrawal, deprive the state department of its authority to institute or continue a proceeding against the applicant for the denial of the license or a special permit upon any ground provided by law or to enter an order denying the license or special permit upon any such ground.

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NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes 2001). Reference: Sections 1503, 1503.5, 1508, 1520 1536.1, 1540, 1540.1, 1541, 1547, and 1553, Health and Safety Code.

89231	ISSUANCE OF LICENSE	89231
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- (a) The licensing agency shall issue a license to the applicant after an application has been completed, an in-home visit has been made pursuant to Section 89227(a), and upon determination that all licensing requirements set forth in Article 3 of this chapter have been met.
- (b) No caregiver shall alter or provide false or misleading information to obtain any foster family home license.
- (c) The license shall be issued for a specific capacity consistent with Sections 89228(a) and (b).
- (d) The licensing agency shall notify the applicant in writing of such issuance.
- (e) No limitation shall be imposed on the caregiver or printed on the license solely on the basis that the caregiver is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1503, 1503.5, 1508, 1509, 1520, 1520.5, 1524, 1525, 1526, 1531.5, 1536.1, 1540, 1540.1, 1541, and 1547, Health and Safety Code.

89234 CHANGES TO LICENSE**89234**

- (a) Whenever there is a change in conditions or limitations described on the current license, including a change in location, the caregiver shall submit a new application, with updated information as required in Section 89218.

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- (b) Changes commonly overlooked but which require that a new application be filed include:
- (1) Any change in the location of the home.
 - (A) Prior notice of the move must allow for time to license the new home.
 - (B) A 30-day notice should provide adequate time for the licensing agency to license the home.
 - (C) If the licensing agency is not able to provide a site visit the first day the new home is occupied, when the licensing agency makes its site visit it may incorporate the placement worker's documentation to determine when the home first met core health and safety standards in accordance with Article 3 Licensing/Approval Standards.
 - (D) The physical license must be issued within 60 days of full licensing compliance.
 - (2) Any change in the home category.
 - (3) A permanent change in any child from ambulatory to nonambulatory status.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 1524, 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1520, 1525.25, and 1531, Health and Safety Code.

89235 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME LICENSE**89235**

- (a) Conditions for forfeiture of a foster family home license may be found in Section 1524 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1524 provides in pertinent part:

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

- (a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority of ownership.
- (b) The licensee surrenders the license to the department.
- (c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.
- (d) The licensee is convicted of an offense specified in Section 220, 243.4 or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.
- (e) The licensee dies. If an adult relative notifies the Department of his or her desire to continue operation of the facility and submits an application, the Department shall expedite the application. The Department shall promulgate regulations for expediting applications submitted pursuant to this subdivision.
- (f) The licensee abandons the facility.

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- (2) "Caregiver abandons the home" shall mean either of the following:

- (A) The caregiver informs the licensing agency that the caregiver no longer accepts responsibility for the home, or

**89235 CONDITIONS FOR FORFEITURE OF A FOSTER FAMILY HOME
LICENSE (Continued)****89235**

- (B) The licensing agency is unable to determine the caregiver's whereabouts after the following:
1. The licensing agency requests information of the caregiver's whereabouts from an adult at the home if an adult can be contacted; and
 2. The licensing agency has made at least one phone call per day, to the caregiver's last telephone number of record, for five consecutive workdays with no response; and
 3. The licensing agency has sent a certified letter, requesting the caregiver to contact the licensing agency, to the caregiver's last mailing address of record with no response within seven calendar days.
- (b) If the caregiver dies or abandons the home and a responsible, adult with control of the property continues to operate the home, he or she shall file a new application, with evidence of caregiver's death if applicable, and shall be subject to Section 89206.

NOTE: Authority cited: Sections 1524, 1524(e), 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1503, 1503.5, 1508, 1520, 1521.5, 1523, 1524, 1524(e), 1536.1, 1540, 1540.1, and 1547, Health and Safety Code.

89240 DENIAL OF A LICENSE**89240**

- (a) The licensing agency shall deny an application for a license if it is determined that the applicant is not in compliance with applicable law and regulation.
- (1) The licensing agency shall have the authority to deny an application for a license if the applicant has failed to pay any civil penalty for unlicensed operations assessed pursuant to Section 89255, Unlicensed Facility Penalties, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (2) The Department may deny any license as specified in Section 1550 of the Health and Safety Code.

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- (A) Health and Safety Code Section 1550 states:

"The department may deny an application for, or suspend or revoke, any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

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89240 DENIAL OF INITIAL LICENSE (Continued)**89240**

- (3) An application for a license shall not be denied solely on the basis that the applicant is a parent who has administered or will continue to administer corporal punishment, not constituting child abuse as defined in Section 11165, subdivision (g) of the Penal Code, or Section 1531.5(c) of the Health and Safety Code, on his/her own child(ren).

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- (A) Section 11165.6 of the Penal Code states:

"As used in this article, the term 'child abuse or neglect' means a physical injury which is inflicted by other than accidental means on a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, willful cruelty or unjustifiable punishment as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. 'Child abuse or neglect' does not include a mutual affray between minors. 'Child abuse or neglect' does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer."

- (B) Section 273(a) of the Penal Code provides in part:

"(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured or willfully causes or permits that child to be placed in such situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four or six years.

"(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor...."

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89240 DENIAL OF A LICENSE (Continued)**89240****HANDBOOK CONTINUES**

(C) Section 273(d) of the Penal Code provides in part:

"(a) Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment in the state prison for two, four or six years, or in the county jail for not more than one year, by a fine of up to six thousand dollars (\$6,000), or by both that imprisonment and fine. . ."

(D) Section 1531.5(c) of the Health and Safety Code states:

"As used in this section, 'child abuse means a situation in which a child suffers from any one or more of the following:

"(1) Serious physical injury inflicted upon the child by other than accidental means.

"(2) Harm by reason of intentional neglect or malnutrition or sexual abuse.

"(3) Going without necessary and basic physical care.

"(4) Willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services.

"(5) Any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development, or capacity for independence.

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(b) If the application for a license is denied, the licensing agency shall mail the applicant a written notice of denial.

(1) The notification shall inform the applicant and set forth the reasons for the denial and shall advise the applicant of the right to appeal.

(c) An applicant shall have the right to appeal the denial of the application pursuant to Section 1526 of the Health and Safety Code and in accordance with Section 1551 of the Health and Safety Code.

89240 DENIAL OF A LICENSE (Continued)**89240**

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- (1) Health and Safety Code Section 1526 provides:

"Immediately upon the denial of any application for a license or for a special permit, the state department shall notify the applicant in writing. Within 15 days after the state department mails the notice, the applicant may present his/her written petition for a hearing to the state department. Upon receipt by the state department of the petition in proper form, such petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department has all the powers granted therein."

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- (d) Proceedings to hear an appeal of a denial shall be conducted pursuant to Section 1551(a) of the Health and Safety Code.

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- (1) Health and Safety Code Section 1551(a) provides in part:

"Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. . ."

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- (e) Notwithstanding any appeal action, the foster family home is unlicensed and shall not operate pending adoption by the Director of a decision on the denial action.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1520, 1520.3, 1522, 1522.01, 1522.2, 1525, 1526, 1531, 1531.5, 1547, 1550, 1551, and 1558.1, Health and Safety Code; Sections 273a, 273(d), 11165, 11165.1, 11165.2, 11165.3, 11165.4, and 11165.6, Penal Code; and Sections 11500, et seq., Government Code.

89242 REVOCATION OR SUSPENSION OF LICENSE**89242**

- (a) The Department shall have the authority to suspend or revoke any license on any of the grounds specified in Section 1550 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1550 specifies the following grounds:

"(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

"(b) Aiding, abetting or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

"(c) Conduct which is inimical to the health, morals, welfare or safety of either an individual in, or receiving services from the facility or the people of the State of California.

"(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

"(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

"(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services."

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- (b) Proceedings to hear a revocation action or a revocation and temporary suspension action shall be conducted pursuant to the provisions of Section 1551 of the Health and Safety Code.

89242 REVOCATION OR SUSPENSION OF LICENSE (Continued)**89242****HANDBOOK BEGINS HERE**

- (1) Health and Safety Code Section 1551(a) provides in part:

"Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the state department shall have all the powers granted by those provisions. . ."

- (2) Chapter 5, commencing with Section 11500 of Part 1, Division 3, Title 2 of the Government Code provides in part:

(A) When the director intends to seek revocation of a license, he/she shall notify the licensee of the proposed action, by serving the licensee with an accusation, and shall advise the licensee of the right to a hearing.

(B) The licensee shall have the right to a hearing prior to the revocation or suspension of a license, except as provided in (1) below.

(1) The director shall have the authority to temporarily suspend any license prior to any hearing when in his/her opinion such action is necessary to protect the children in the foster family home from any physical or mental abuse or any other substantial threat to health or safety.

(2) When the director intends to temporarily suspend a license prior to a hearing, he/she shall notify the licensee of the temporary suspension and the effective date thereof, and shall concurrently serve the licensee with an accusation.

(C) The director shall, within 15 calendar days of receipt of notice of defense, request the Office of Administrative Hearings to set the matter for hearing.

(D) For a revocation and temporary suspension action, the director shall request the Office of Administrative Hearings to hold the hearing as soon as possible but not later than 30 calendar days after receipt of the Notice of Defense.

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NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1522, 1522.01, 1522.2, 1533, 1534, 1538, 1550, and 1551, Health and Safety Code; and Sections 11500, et seq., Government Code.

89244 INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY 89244

- (a) The Department or licensing agency shall have the inspection authority specified in Sections 1533, 1534, and 1538 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1533 provides in part:

"... any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of any provision of this chapter.

"Foster family homes which are considered private residences for the purpose of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint. The unannounced visits shall not constitute the annual evaluation visit required by Section 1534.

Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"Normal business hours,' as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays."

- (2) Health and Safety Code Section 1534(a) provides in part:

"(1) (A) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided. . .

"(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

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- "(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located."
- (3) Health and Safety Code Section 1538 provides in part:
- "(a) Any person may request an inspection of any community care facility or certified family home in accordance with the provisions of this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.
- "(b) The substance of the complaint shall be provided to the licensee or certified family home and foster family agency no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee or certified family home and foster family agency nor any copy of the complaint or any record published, released, or otherwise made available to the licensee or certified family home and foster family agency shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.
- "(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility or certified family home within 10 days after receiving the complaint except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action. . .

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Regulations	FOSTER FAMILY HOMES	89244
89244	INSPECTION AUTHORITY OF THE DEPARTMENT OR LICENSING AGENCY(Continued)	89244

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- "(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action. . ."

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- (b) The licensing agency shall have the authority to interview any child in the home, and to inspect, reproduce and audit the children's or the home's records without prior consent.
- (1) The caregiver shall make provisions for private interviews with any child and for the examination and reproduction of all records relating to the operation of the home.
- (c) The licensing agency shall have the authority to observe the physical condition of the child, including conditions which could indicate abuse, neglect, or inappropriate placement, and to have a licensed medical professional physically examine the child.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1531, 1533, 1534 and 1538, Health and Safety Code.

89245 EVALUATION VISITS**89245**

- (a) Every home shall be evaluated as specified in Sections 1533 and 1534 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1533 provides in part:

"... any duly authorized officer, employee or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

"Foster family homes which are considered private residences for the purpose of Section 1530.5 shall not be subject to inspection by the department or its officers without advance notice, except in response to a complaint. The unannounced visit shall not constitute the annual evaluation visit required by Section 1534. Inspection visits to foster family homes shall be made during normal business hours, unless the serious nature of a complaint requires otherwise.

"Normal business hours,' as used in this section, means from 8 a.m. to 5 p.m., inclusive, of each day from Monday to Friday, inclusive, other than state holidays."

- (2) Health and Safety Code Section 1534(a) provides in part:

"(1) (A) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided. . .

"(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

"(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located."

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89245 EVALUATION VISITS (Continued)**89245**

- (b) The licensing agency shall have the authority to make any number of additional visits to a foster family home in order to determine compliance with applicable law and regulation.
- (c) Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507.5, 1530.5, 1531, 1533, 1534 and 1538, Health and Safety Code.

89246 EXCLUSIONS**89246**

- (a) An individual can be prohibited from being employed, allowed in, and to have contact with clients in a licensed home as specified in Section 1558 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1558 states:

“(a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

"(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

"(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

"(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

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89246 EXCLUSIONS (Continued)**89246**

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"(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

"(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

"(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

"(c)(1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

"(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

"(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

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"(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

"(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

"(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

"(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

"(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

"(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

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89246 EXCLUSIONS (Continued)

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"(h)(1)(A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

“(2)(A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

"(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.”

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NOTE: Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1522, 1522.01, 1522.2, 1558, 1558.1, 1569 et seq., and 1596.9 et seq., Health and Safety Code; and Sections 11500 et seq., 11506, 11522, Government Code.

89252 DEFICIENCIES IN COMPLIANCE**89252**

- (a) When an evaluator visits a home and determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is not serious and is corrected during the visit.
- (b) Prior to completion of a visit, the caregiver, or other person in charge of the home shall meet with the evaluator to discuss any deficiencies noted, to jointly develop a plan for correcting each deficiency and to acknowledge receipt of the notice of deficiency.
- (c) The evaluator shall provide a notice of deficiency to the caregiver by one of the following:
 - (1) Personal delivery to the caregiver, at the completion of the visit.
 - (2) If the caregiver is not at the home, leaving the notice with the person in charge, at the completion of the visit.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the caregiver.
 - (3) If the caregiver refuses to accept the notice or the notice cannot be completed during the visit, mailing the notice to the caregiver.
- (d) The notice of deficiency shall be in writing and shall include the following:
 - (1) Citation of the statute or regulation which has been violated.
 - (2) A description of the nature of the deficiency stating the manner in which the caregiver failed to comply with a specified statute or regulation, and the particular place or area of the home in which it occurred.
 - (3) The plan developed, as specified in (b) above, for correcting each deficiency.
 - (4) A date by which each deficiency shall be corrected.
 - (A) In determining the date for correcting a deficiency, the evaluator shall consider the following factors:
 - 1. The potential hazard presented by the deficiency.
 - 2. The number of children affected.

89252 DEFICIENCIES IN COMPLIANCE (Continued)**89252**

3. The availability of equipment or personnel necessary to correct the deficiency.
4. The estimated time necessary for delivery, and for any installation, of necessary equipment.
- (B) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days.
- (C) If the date for correcting the deficiency is more than 30 calendar days following service of the notice of deficiency, the notice shall specify corrective actions which must be taken within 30 calendar days to begin correction.
- (D) The evaluator shall have the authority to require correction of a deficiency within 24 hours or less if there is an immediate threat to the health or safety of the clients.
- (5) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the home is located.
- (6) A follow-up visit shall be conducted to determine compliance with the plan of correction specified in the notice of deficiency.

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- (e) The following are examples of regulations which, if not complied with, nearly always result in a serious deficiency.
- (1) Section 89410 relating to limitations on the capacity or ambulatory status of the children.
 - (2) Section 89510.1 relating to limitations on the capacity of specialized foster family homes.
 - (3) Section 89510.2 relating to dual licensure of specialized foster family homes.
 - (4) Section 89219 relating to criminal record clearance.
 - (5) Section 89420 relating to fire clearance.
 - (6) Section 89421 relating to water supply.
 - (7) Section 89565.1 relating to specialized in-home health care training and health screenings for staff in specialized foster family homes.

HANDBOOK CONTINUES

Regulations	FOSTER FAMILY HOMES	89252
89252	DEFICIENCIES IN COMPLIANCE (Continued)	89252

HANDBOOK CONTINUES

- (8) Section 89372 relating to children's rights.
- (9) Section 89373 relating to telephone service.
- (10) Section 89475 relating to storing and dispensing medications.
- (11) Section 89376 relating to food, preparation and service.
- (12) Section 89387 relating to safety of children's accommodations.
- (13) Section 89587.1 relating to safety of accommodations for children with special health care needs.
- (14) Sections 89387(h) and (m) relating to hot water temperature and toilet facilities.
- (15) Section 89387(n) relating to storage and disposal of solid wastes.
- (16) Any other regulation, the violation of which is deemed by the licensing agency to constitute a serious deficiency as defined in Section 89201(s)(1).

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NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; Section 17730, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1531, 1533, 1534, 1538, and 1553, Health and Safety Code; and Sections 17731 and 17732, Welfare and Institutions Code.

89254 PENALTIES**89254**

- (a) An immediate penalty of \$100 per violation shall be assessed for failure to submit fingerprints on any individual required to be fingerprinted under Health and Safety Code Section 1522(b) prior to the person's employment, residence or presence in the facility.
- (1) Progressive civil penalties specified in Health and Safety Code Section 1548 shall not apply.
- (b) Unless otherwise provided, all penalties are due and payable upon receipt of notice for payment, and shall be paid only by check or money order made payable to the agency indicated in the notice.

NOTE; Authority cited: Sections 1522, 1530 and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1522, 1533, 1534, 1538, and 1548, Health and Safety Code.

89255 UNLICENSED FACILITY PENALTIES**89255**

- (a) A penalty of \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:
- (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of the Law pursuant to Section 87006, and continues to operate.
- (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 89218.
- (B) The completed application shall be deemed to be submitted when received by the licensing agency.
- (2) Unlicensed operation continues after denial of the initial application.
- (A) Notwithstanding any appeal action, home operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:
- (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.

89255 UNLICENSED FACILITY PENALTIES (Continued)**89255**

- (A) The \$200 per day penalty shall continue until the operator ceases operation or submits a completed application pursuant to Sections 89255(a)(1)(A) and (B).
- (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (A) The \$200 per day penalty shall continue until the operator ceases operation.
- (c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in Section 1503.5 of the Health and Safety Code has ceased, the penalty shall cease as of the day the licensing agency receives the notification.
- (1) A site visit shall be made immediately or within five working days to verify that the unlicensed home operation has ceased.
- (2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.
- (d) All penalties shall be due and payable upon receipt of the Notice for Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.
- (e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction to take other appropriate action for failure to pay penalties as specified in (d) above.

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- (f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a community care home without a license.
- (1) Section 1508 of the Health and Safety Code provides in part:
- No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct or maintain a community care facility in this state, without a current valid license therefore as provided in this Chapter.

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NOTE: Authority cited: Sections 1524, 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1503.5, 1508, 1520, 1533, 1536.1, 1540, 1540.1, 1541, 1547 and 1549, Health and Safety Code.

**89255.1 DENIAL OR REVOCATION OF LICENSE FOR
FAILURE TO PAY CIVIL PENALTIES****89255.1**

- (a) The licensee shall be responsible for paying civil penalties.
 - (1) Unless otherwise provided, the transfer, surrender, forfeiture or revocation of a license shall not affect the licensee's responsibility for paying any civil penalties accrued while the license was in effect.
- (b) The Department shall have the authority to deny or revoke any license for failure to pay civil penalty assessments.
 - (1) The Department shall have the authority to approve payment arrangements acceptable to the Department.
 - (2) The Department shall have the authority to approve the form of payment.
 - (3) The licensee's failure to pay civil penalty assessments pursuant to a payment plan approved by the Department may result in the denial or revocation of any license, and/or any other appropriate action.
- (c) Any denial or revocation of the license for failure to pay civil penalties may be appealed as provided by Health and Safety Code Section 1551.

NOTE: Authority cited: Sections 1522, 1530 and 1548, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1534, 1548, and 1551, Health and Safety Code.

89256 UNLICENSED FACILITY ADMINISTRATIVE APPEAL**89256**

- (a) An unlicensed facility operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days of the mailing of the penalty assessment.
 - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

NOTE: Authority cited: Sections 1530, 1530.5, and 1547, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1503.5, 1508, 1536.1, 1540, 1541, 1541.1, and 1547, Health and Safety Code.

89261	REPORTING PROCEDURES	89261
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- (a) Upon the occurrence, during the operation of the home, of any of the events specified in Section 89361(a), a report shall be made to the licensing agency within the agency's next working day during its normal business hours. In addition, a written report containing the information specified in Section 89361(b) shall be submitted to the licensing agency within seven days following the occurrence of such event.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1530.6, 1531, 1538, 1550.5, and 1557.5, Health and Safety Code.

89286	ALTERATIONS TO EXISTING FOSTER FAMILY HOMES	89286
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- (a) The licensing agency shall have the authority to require that the caregiver have a building inspection by a local building inspector if the agency suspects that a hazard to health and safety exists.

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- (b) Prior to construction or alterations, state and local law requires that the caregiver shall secure a building permit.

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NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code; and Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1525.5, and 1531, Health and Safety Code.

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Article 3. LICENSE/APPROVAL STANDARDS**89317 APPLICANT QUALIFICATIONS****89317**

- (a) Any adult shall be permitted to apply for a license regardless of age, sex, race, religion, color, political affiliation, national origin, handicap, marital status, or sexual orientation.
- (b) An applicant shall have the following qualifications:
 - (1) Ability to provide care and supervision appropriate to the type of children to be served including ability to communicate with the children.
 - (2) Knowledge of and ability to comply with the applicable laws and regulations.
 - (3) Ability to maintain, or supervise the maintenance of, financial and other records.
 - (4) Ability to direct the work of others when applicable.
- (c) An applicant for a foster family home license shall complete an orientation provided by the licensing/approval agency.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1520, 1525.3, 1526.5, 1529.1, 1529.2, 1529.3, 1530.91, 1531, and 1562, Health and Safety.

89319 CRIMINAL RECORD CLEARANCE REQUIREMENT**89319**

All persons subject to criminal record review shall obtain a criminal record clearance from the California Department of Social Services or county as appropriate. Such review will require submission of completed fingerprints pursuant to Health and Safety Code Section 1522. The licensing/approval agency will also conduct a search of the Child Abuse Clearance Index and child abuse records. The licensing/approval agency may conduct an authorized search of the California Law Enforcement Telecommunications System (CLETS).

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1522 and 1522.1, Health and Safety Code.

89323 EMERGENCY PLAN**89323**

- (a) Each caregiver shall post emergency telephone numbers, discuss emergency situations with children, practice emergency procedures every six months and at time of new placements.

NOTE: Authority Cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1520 and 1531, Health and Safety Code.

89361 REPORTING REQUIREMENTS**89361**

- (a) Each caregiver shall furnish to the licensing/approval agency and the child's authorized representative such reports as required by the Department including but not limited to the following:
- (1) Death of any child from any cause.
 - (2) Any injury or illness to any child which requires medical treatment.

89361 REPORTING REQUIREMENTS**89361**

- (3) Any unusual incident or child absence which threatens the physical or emotional health or safety of any child.
 - (4) Any suspected physical or psychological abuse of any child.
 - (5) Communicable diseases as reported to caregiver by a health professional.
 - (6) Poisonings.
 - (7) Catastrophes.
 - (8) Fires or explosions which occur in or on the premises.
- (b) When a written report of such an event is required by the licensing/approval agency, the caregiver shall submit, within 7 days, a written report of such event, which includes the following information:
- (1) Child's name, age, sex, and date of admission.
 - (2) Date and nature of event.
 - (3) Attending physician's name, findings, and treatment, if any.
 - (4) Disposition of the case.
- (c) Any change in the caregiver's mailing address that does not also include a change in location shall be reported to the licensing/approval agency within 10 working days following the occurrence.
- (d) When there is a change in the location of the home, the caregiver shall notify the licensing/approval agency 30 days prior to the move or as soon as the information is available.
- (e) When the caregiver intends to be absent from the home for 48 hours or longer, the caregiver shall notify the licensing/approval agency and the child's authorized representative, in writing or by telephone and include the following information:
- (1) Dates of intended absence.
 - (2) Whether the child will accompany the caregiver or remain in the home.
 - (3) Telephone number where caregiver may be contacted.
 - (4) Name, address, telephone number of substitute care provider.

89361 REPORTING REQUIREMENTS (Continued)**89361**

- (f) The caregiver shall report all changes in household composition within ten working days. These changes shall include, but not be limited to:
- (1) Any additions to the caregiver's family, including when the caregiver becomes guardian or conservator for any child or other person.
 - (2) The arrival or departure of any person, other than the children, residing in the home requires immediate notification and clearance per the requirements of Health and Safety Code Section 1522(b).

NOTE: Authority cited: Sections 1530, 1530.5, 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1520, 1530.6, 1531, and 1557.5, Health and Safety Code.

89370 CHILDREN'S RECORDS**89370**

- (a) The caregiver shall maintain a separate, complete, and current record or file in the home for each child, which includes a current placement agreement and Needs and Services Plan for each child, and the name, birth date and date of placement in the home.
- (b) The file should also contain a written consent that authorizes the caregiver to obtain other ordinary medical and dental care in an emergency if the authorized representative cannot be reached.
- (c) All children's records shall be subject to inspection and reproduction by the licensing/approval agency when requested.
- (d) All information and records obtained from or regarding children shall be confidential except as otherwise authorized by law.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1520, 1531, and 1557.5, Health and Safety Code.

89372 PERSONAL RIGHTS**89372**

- (a) The caregiver shall ensure that each child is accorded the personal rights specified in this section.
- (b) Each child, and his/her authorized representative, shall be personally advised and given at admission a copy of the rights specified in (c) below.
- (c) Each child shall have personal rights which include but are not limited to the following:
 - (1) To be accorded safe, healthful and comfortable home accommodations, furnishings and equipment that are appropriate to his/her needs.
 - (A) To have storage space for his/her private use.
 - (2) To be treated with respect and to be free from physical, sexual, emotional or other abuse.
 - (3) To be free from corporal or unusual punishment, infliction of pain, humiliation, intimidation, ridicule, coercion, threat, mental abuse, or other actions of a punitive nature including but not limited to interference with the daily living functions of eating, sleeping, or toileting, or withholding of shelter, clothing, or aids to physical functioning.
 - (4) To receive adequate and healthy food.
 - (5) To be provided adequate clothing and personal items.
 - (A) To wear his/her own clothes.
 - (B) To possess and use his/her own personal items including toiletries.
 - (6) To receive an allowance if living in a group home.
 - (7) To receive necessary medical, dental, vision, and mental health services.
 - (8) To be free of the administration of medication or chemical substances, unless authorized by a physician and, if required, by court order.
 - (9) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors and friends.
 - (10) To contact family members, unless prohibited by court order.
 - (11) To visit and contact brothers and sisters, unless prohibited by court order.
 - (12) To contact social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.

89372 PERSONAL RIGHTS (Continued)**89372**

- (13) To have visitors, provided the rights of others are not infringed upon.
- (A) Relatives, during waking hours, unless prohibited by court order, or by the child's authorized representative.
 - (B) Authorized representative.
 - (C) Other visitors, unless prohibited by court order or by the child's authorized representative.
- (14) To contact Community Care Licensing Division of the State Department of Social Services if residing in a licensed home, or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially and to be free from threats or punishments for making complaints.
- (A) To be informed and to have his/her authorized representative informed, by the caregiver of the provisions of law regarding complaints, including but not limited to the address and telephone number of the complaint, receiving unit of the licensing agency and of information regarding the confidential registration of complaints.
- (15) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.
- (A) Reasonable restrictions may be imposed by the social worker/caregiver to calls and correspondence.
 - (B) No restrictions shall be applied to those listed in (c)(12) above.
 - (C) Other reasonable restrictions may be imposed. The caregiver may:
 - 1. Request long distance cost reimbursement, for calls made by the child, from the child or his/her authorized representative;
 - 2. Be permitted to deny the making of long distance calls by the child upon verification that previous long distance calls have not been paid.
 - 3. Ensure that telephone use does not infringe upon the rights of others, nor tie up the phone during emergencies;
 - 4. Restrict the child's telephone use as reasonable discipline in compliance with (B) above, and shall be subject to social worker review.

89372 PERSONAL RIGHTS (Continued)**89372**

- (D) To have access to letter writing material.
- (16) To be free to attend religious services and activities of his/her choice and to have visits from the spiritual advisor of his/her choice.
- (17) To be accorded the independence appropriate to the child's age, maturity, and capability consistent with the child's Needs and Services Plan or Transitional Independent Living Plan (TILP) if applicable.
 - (A) To attend Independent Living Program classes and activities if he/she is 16 or older.
 - (B) To maintain an emancipation bank account.
 - (C) To manage personal income, consistent with his/her age and developmental level.
 - (D) To work and develop job skills at an age appropriate level that is consistent with state law.
 - (E) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with his/her age and developmental level.
- (18) To not be locked in any room, building, or family home.
 - (A) The caregiver shall not be prohibited by this provision from locking exterior doors and windows or from establishing house rules for the protection of the children so long as the children can exit from the home.
- (19) Not to be placed in any restraining device. Postural supports may be used if they are approved in advance by the licensing agency as specified in (A) through (F) below.
 - (A) Postural supports shall be limited to appliances or devices including braces, spring release trays, or soft ties, used to achieve proper body position and balance, to improve a child's mobility and independent functioning, or to position rather than restrict movement including, but not limited to, preventing a child from falling out of bed, a chair, etc.
 - 1. Physician-prescribed orthopedic devices such as braces or casts used for support of a weakened body part or correction of body parts are considered postural supports.

89372 PERSONAL RIGHTS (Continued)**89372**

- (B) All requests to use postural supports shall be in writing and include a written order of a physician indicating the need for such supports. The licensing agency shall be authorized to require other additional documentation in order to evaluate the request.
 - (C) Approved postural supports shall be fastened or tied in a manner which permits quick release by the child.
 - (D) The licensing agency shall have the authority to grant conditional and/or limited approvals to use postural supports.
 - (E) Under no circumstances shall postural supports include tying, depriving, or limiting the use of a child's hands or feet.
 - 1. A bed rail that extends from the head half the length of the bed and used only for assistance with mobility shall be allowed with prior licensing approval. Bed rails that extend the entire length of the bed are prohibited.
 - (F) Protective devices including, but not limited to, helmets, elbow guards, and mittens which do not prohibit a child's mobility but rather protect the child from self-injurious behavior are not to be considered restraining devices for the purpose of this regulation. Protective devices may be used if they are approved in advance by the licensing agency as specified below.
 - 1. All requests to use protective devices shall be in writing and include a written order of a physician indicating the need for such devices. The licensing agency shall be authorized to require additional documentation including, but not limited to, the Individual Program Plan (IPP) as specified in Welfare and Institutions Code Section 4646, and the written consent of the authorized representative, in order to evaluate the request.
 - 2. The licensing agency shall have the authority to grant conditional and/or limited approvals to use protective devices.
- (20) To be free to attend court hearings and speak to the judge.
- (21) To contact his/her placing social worker to review his/her own case plan if he/she is over 12 years of age and to receive information regarding out-of-home placement and case plan, including being told of changes to the plan.
- (22) To be accorded dignity in his/her personal relationships with other persons in the home.
- (A) To be free from unreasonable searches of person.

89372	PERSONAL RIGHTS (Continued)	89372
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- (B) To be free from unreasonable searches of personal belongings.
- (23) To have all his/her juvenile court records be confidential, consistent with existing law.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1520, 1530.9, 1531, and 1559.110, Health and Safety Code; and Section 16001.9, Welfare and Institutions Code.

89373	TELEPHONES	89373
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All foster family homes shall have telephone service, unless alternative telephone access is approved and documented.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1520, 1524.7, and 1531, Health and Safety Code.

89374	TRANSPORTATION	89374
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The caregiver shall ensure that all transportation provided for children in their care is provided in vehicles that are in safe operating condition and that the drivers comply with all applicable laws.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501 and 1531, Health and Safety Code.

89376	FOOD SERVICE	89376
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- (a) The caregiver shall provide or ensure at least three nutritious meals per day and as necessary to meet any special dietary needs documented in the child's Needs and Services Plan.
- (b) Whenever children in placement eat at the home, they will have their meals with family members in a family setting.
- (c) Infants under seven months shall be held during bottle-feeding.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1520, and 1530, Health and Safety Code.

89378 RESPONSIBILITY FOR PROVIDING CARE AND SUPERVISION**89378**

- (a) The caregiver shall provide care and supervision as necessary to meet each child's needs, and shall be available at all times unless documented in the child's Needs and Services Plan, placement agreement, or Transitional Independent Living Plan (TILP) or agreed to in advance by the licensing agency.
- (b) The caregiver shall provide those services identified in each child's Needs and Services Plan and Transitional Independent Living Plan (TILP) if applicable.
- (c) The caregiver is responsible for ensuring care and supervision of the child(ren) of any minor parent in placement.
 - (1) Direct care and supervision of the child(ren) of a minor parent is to be provided during the hours that the minor parent is unavailable or unable to provide such care and supervision.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 11465, Welfare and Institutions Code; and Sections 1501, 1520, 1530.6, 1531, and 1559.110, Health and Safety Code; and 42 USC Section 677 of the Social Security Act.

89379 ACTIVITIES**89379**

- (a) The caregiver shall provide opportunity for, and encourage participation in, group sports, leisure time, family, special school, and daily living skill activities.
- (b) The caregiver shall ensure direct care and supervision is provided to meet the child's needs during participation in those activities that are sponsored by third parties, except that school-sponsored activities shall be presumed to provide adequate care and supervision.

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When a caregiver is determining whether a sponsor, other than a school, is providing adequate care and supervision, the caregiver should consider who the sponsor is and what supervision and safeguards are in place.

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NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1530.6, and 1531, Health and Safety Code.

89387 BUILDINGS AND GROUNDS**89387**

- (a) The caregiver shall provide bedrooms in the home which shall meet, at a minimum, the following requirements unless a documented alternative plan is approved:
- (1) No more than two children shall share a bedroom.
 - (2) Children of the opposite sex shall not share a bedroom unless each child is under five years of age.
 - (3) No room commonly used for other purposes shall be used as a bedroom.
 - (A) Such rooms shall include but not be limited to halls, stairways, unfinished attics or basements, garages, storage areas and sheds or similar detached buildings.
 - (4) No bedroom shall be used as a public or general passageway to another room.
 - (5) The caregiver shall provide each child with an individual bed which is equipped with a clean, comfortable mattress, clean linens, blankets, and pillows, as needed, all in good repair.
 - (A) Linen shall be changed at least once per week or more often when necessary to ensure that clean linen is in use by children at all times.
 - (B) Beds shall be arranged to allow easy passage between beds and easy entrance into the room.
 - (6) Each bedroom shall have portable or permanent closets and drawer space to accommodate the child's clothing and personal belongings.
 - (7) The caregiver shall provide each infant with a safe and sturdy bassinet or crib, appropriate to the child's age and size.
 - (8) Except for infants, children shall not share a bedroom with an adult.
 - (A) In bedrooms shared by adults and infants, no more than two infants and no more than two adults shall share the room.
 - (9) Sections 89387(a)(1) through (a)(8) apply to all bedrooms used by all children residing in the home, including children who are members of the caregiver's family, guardianship children, and children in placement.
 - (10) Sections 89387(a)(3) and (a)(4) apply to all bedrooms used by the caregiver and all other adults residing in the home.
- (b) The home shall be clean, safe, sanitary and in good repair at all times for the safety and well-being of the children.

89387 BUILDINGS AND GROUNDS (Continued)**89387**

- (c) All outdoor and indoor passageways, and stairways, inclines, ramps, open porches and other areas or potential hazard shall be kept free of obstruction.
- (d) All homes that accept children under 10 years of age or a child that has a condition including one that makes the child developmentally disabled, or mentally handicapped, and for whom special care and supervision is required as result of his/her condition, shall ensure the inaccessibility of pools, including swimming pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds, and similar bodies of water by using at least one of the following safety features:
 - (1) The pool shall be isolated from access to a home by an enclosure, as defined in Section 115921(c) and that meets the requirements of Section 115923 of the Health and Safety Code and does not obscure the pool from view.

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Section 115921 of the Health and Safety Code states in pertinent part:

(c) "Enclosure" means a fence, wall, or other barrier that isolates a swimming pool from access to the home.

Section 115923 of the Health and Safety Code states:

An enclosure shall have all of the following characteristics:

- (a) Any access gates through the enclosure open away from the swimming pool, and are self-closing with a self-latching device placed no lower than 60 inches above the ground.
- (b) A minimum height of 60 inches.
- (c) A maximum vertical clearance from the ground to the bottom of the enclosure of two inches.
- (d) Gaps or voids, if any, do not allow passage of a sphere equal or greater than four inches in diameter.
- (e) An outside surface free of protrusions, cavities, or other physical characteristics that would serve as handholds or footholds that could enable a child below the age of five years to climb over.

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89387 BUILDINGS AND GROUNDS (Continued)**89387**

- (2) The pool shall be equipped with an approved safety pool cover as defined in Section 115921 of the Health and Safety Code.

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Section 115921(d) of the Health and Safety Code states in pertinent part:

(d) "Approved safety pool cover" means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard F1346-91.

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- (3) When the Department determines that it is not feasible for the caregiver to comply with (1) or (2) above, the residence shall be equipped with exit alarms, as defined in Section 115921(e) of the Health and Safety Code, on those doors providing direct access to the pool.

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Section 115921 of the Health and Safety Code states in pertinent part:

(e) "Exit alarms" means devices that make audible, continuous alarm sounds when any door or window, that permits access from the residence to the pool area that is without any intervening enclosure, is opened or is left ajar. Exit alarms may be battery operated or may be connected to the electrical wiring of the building.

HANDBOOK ENDS HERE

- (4) All doors providing direct access from the home to the swimming pool shall be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor.
- (5) All windows providing direct access from the home to the swimming pool shall be secured so that they cannot open more than 4 inches, however, if they are sleeping rooms, they must use an exit alarm.
- (6) Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the devices set forth in subdivisions (1) to (4), inclusive, as determined by the building official of the jurisdiction issuing the applicable building permit, or other official documentation. Any ordinance governing child access to pools adopted by a political subdivision on or before January 1, 1997, is presumed to afford protection that is equal to or greater than that afforded by any of the devices set forth in subdivisions (a) to (d), inclusive.

89387 BUILDINGS AND GROUNDS (Continued)**89387**

- (A) The caregiver must submit to the department documentation of approval by the building official of his/her jurisdiction before accepting children described in subsection (d) above.
- (B) If licensed prior to June 1, 1995, facilities with existing pool fencing shall be exempt from the fence requirements specified in Section 89387(d)(1) until such fence is replaced or structurally altered. When the caregiver replaces or alters the fence, it shall be required to meet the fence requirements specified in Section 89387(d)(1).
- (e) If the home has an above-ground pool, the pool shall be made inaccessible when not in use by removing or making the ladder inaccessible and by the use of a barricade. Any barricade, whether or not it includes the above-ground pool structure itself, shall meet the requirements of Section 89387(d)(1).
- (f) All in-ground pools, and above-ground pools which cannot be emptied after each use, shall have an operative pump and filtering system.
- (g) An adult who has the ability to swim shall provide supervision at all times when children are using a pool or a body of water from which rescue requires the rescuer's ability to swim.
- (h) The caregiver who accepts a child with a disability shall make necessary specific provisions including but not limited to changes to the buildings and grounds as required to protect and assist the child and maximize the child's potential for self-help.
- (i) The caregiver shall maintain at least one toilet, sink, and tub or shower maintained in safe, clean operating conditions.
- (j) Bunk beds of more than two tiers shall not be used.
 - (1) Bunk beds shall have railings on the upper tier to prevent falling.
 - (2) Children under five years of age or those who are unable to climb into or out of the upper tier unassisted shall not be permitted to use the upper tier.
- (k) The caregiver shall maintain a comfortable temperature for children at all times.
- (l) The caregiver shall ensure the safety of the child in home with fireplaces and open-faced heaters and woodstoves.
- (m) The caregiver shall provide lamps or light as necessary in all rooms and other areas to ensure the comfort and safety of all persons in the home.
- (n) Faucets used by clients for personal care and grooming shall deliver hot water at a safe temperature.

89387 BUILDINGS AND GROUNDS (Continued)**89387**

- (o) Waste shall be stored, located and disposed of in a manner that will not permit the transmission of communicable disease or of odors, create a nuisance, provide a breeding place or food source for insects or rodents.
- (p) All foster family homes, except homes with sprinkling systems, shall have an approved commercially manufactured and functioning smoke detector installed in the hallway(s) in each sleeping area in the home. The smoke detectors shall be audible in each bedroom or sleeping room.
- (q) Each bedroom or sleeping room shall have at least one operable window or door that ensures safe, direct, emergency exit to the outside. If security window bars are used, the window is considered operable only if the window bars have a safety release device that meets all state and local requirements.

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The Department shall notify the caregiver of the requirements of Section 1531.4 of the Health and Safety Code, which states:

On and after January 1, 1999, no security window bars may be installed or maintained on any community care facility unless the security window bars meet current state and local requirements, as applicable, for security window bars and safety release devices.

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NOTE: Authority cited: Sections 1530, 1530.5, 1531, and 11526, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1531, 1531.4, 115921, and 115923, Health and Safety Code.

89387.1 OUTDOOR ACTIVITY SPACE**89387.1**

- (a) The caregiver shall provide yard or outdoor activity space that is free from hazards to life and health.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, and 1531, Health and Safety Code.

89387.2 STORAGE SPACE**89387.2**

- (a) Medicines, disinfectants, cleaning solutions, poisons, firearms and other dangerous items shall be stored where inaccessible to children.
 - (1) Storage areas for poisons, and firearms and other dangerous weapons shall be locked.

89387.2 STORAGE SPACE (Continued)**89387.2**

- (2) In lieu of locked storage of firearms, the caregiver may use trigger locks or remove the firing pin.
 - (A) Firing pins shall be stored and locked separately from firearms.
- (3) Ammunition shall be stored and locked separately from firearms.
- (b) Medicines, disinfectants, and cleaning solutions may be accessible to children consistent with the child's Needs and Services Plan or TILP if applicable.

NOTE: Authority cited: Sections 1524, 1530 and 1530.5, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501 and 1531, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and 42 USC Section 677 of the Social Security Act.

89388 COOPERATION AND COMPLIANCE**89388**

- (a) The caregiver shall maintain and cooperate with all caregiver standards.
- (b) No caregiver shall make or disseminate any false or misleading statement associated with the application for licensure/approval, including but not limited to information regarding the applicant, family members, family home, or any of the services provided by the home.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

Article 4. PLACEMENT**89400 LICENSURE IS NOT AN ENTITLEMENT TO PLACEMENT****89400**

- (a) A license is required prior to placement, but the license does not entitle the caregiver to placement of a child pursuant to Section 16507.5 of the Welfare and Institutions Code.

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- (1) Welfare and Institutions Code Section 16507.5 provides in part:

The granting of a community care license or approval status does not entitle the caregiver to the placement of a specific child or children. Placement is based on the child's needs and best interest.

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NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501 and 1501.1, Health and Safety Code; and Section 16507.5, Welfare and Institutions Code.

89405 TRAINING REQUIREMENTS**89405**

- (a) Any time a child is in the home, at least one of the persons providing regular and routine care and supervision to the child shall have received current training in first aid and/or Cardiopulmonary Resuscitation (CPR). Training shall be obtained from an agency offering such training including, but not limited to, the American Red Cross, and shall be current and appropriate to the child's age and needs.

In addition to all other required training, the caregiver shall complete the training required in Section 1529.2 of the Health and Safety Code.

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- (1) Health and Safety Code Section 1529.2 provides:

"(a) In addition to the foster parent training provided pursuant to Section 903.7 of the Welfare and Institutions Code, foster family agencies shall supplement the community college training by providing a program of training for their certified foster families.

HANDBOOK CONTINUES

89405 TRAINING REQUIREMENTS (Continued)

89405

HANDBOOK CONTINUES

- "(b) (1) Every licensed foster parent shall complete a minimum of 12 hours of foster parent training, as prescribed in paragraph (3), before the placement of any foster children with the foster parent. In addition, a foster parent shall complete a minimum of eight hours of foster parent training annually as prescribed in paragraph (4). No child shall be placed in a foster family home unless these requirements are met by the persons in the home who are serving as the foster parents.
- "(2) (A) Upon the request of the foster parent for a hardship waiver from the postplacement training requirement or a request for an extension of the deadline, the county may, at its option, on a case-by-case basis, waive the postplacement training requirement or extend any established deadline for a period not to exceed one year, if the postplacement training requirement presents a severe and unavoidable obstacle to continuing as a foster parent. Obstacles for which a county may grant a hardship waiver or extension are:
- "(i) Lack of access to training due to the cost or travel required.
- "(ii) Family emergency.
- "(B) Before a waiver or extension may be granted, the foster parent should explore the opportunity of receiving training by video or written materials.
- "(3) The initial preplacement training shall include, but not be limited to, training courses that cover all of the following:
- "(A) An overview of the child protective system.
- "(B) The effects of child abuse and neglect on child development.
- "(C) Positive discipline and the importance of self-esteem.
- "(D) Health issues in foster care.
- "(E) Accessing education and health services available to foster children.
- "(4) The postplacement annual training shall include, but not be limited to, training courses that cover all of the following:

HANDBOOK CONTINUES

89405 TRAINING REQUIREMENTS (Continued)**89405**

HANDBOOK CONTINUES

- “(A) Age-appropriate child development.
 - “(B) Health issues in foster care.
 - “(C) Positive discipline and the importance of self-esteem.
 - “(D) Emancipation and independent living skills if a foster parent is caring for youth.
- “(5) Foster parent training may be attained through a variety of sources, including community colleges, counties, hospitals, foster parent associations, the California State Foster Parent Association's Conference, adult schools, and certified foster parent instructors.
- “(6) A candidate for placement of foster children shall submit a certificate of training to document completion of the training requirements. The certificate shall be submitted with the initial consideration for placements and provided at the time of the annual visit by the licensing agency thereafter.
- “(c) Nothing in this section shall preclude a county from requiring county-provided preplacement or postplacement foster parent training in excess of the requirements in this section.”
- (b) The following are examples of course, seminar, conference or training topics which will be accepted by the licensing agency to meet the requirements in (a) above. Programs which can be shown to be similar will also be accepted.
- (1) Child development
 - (2) Recognizing and/or dealing with learning disabilities
 - (3) Infant care and stimulation
 - (4) Parenting skills
 - (5) Complexities, demands and special needs of children in placement
 - (6) Building self-esteem, for the caregiver or the children

HANDBOOK CONTINUES

89405 TRAINING REQUIREMENTS (Continued)**89405**

HANDBOOK CONTINUES

- (7) Recordkeeping
- (8) Caregiver rights and grievance process
- (9) Licensing and placement regulations
- (10) Rights and responsibilities of foster family home providers

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NOTE: Authority cited: Sections Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1529.1, 1529.2, 1529.3, and 1562, Health and Safety Code; and Section 903.7, Welfare and Institutions Code.

89410	LIMITATIONS ON CAPACITY AND AMBULATORY STATUS	89410
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- (a) The caregiver shall not operate a home beyond the conditions and limitations specified in the license, including the capacity limitation.
- (b) The caregiver shall not accept more than two infants, including infants in the caregiver's family, without additional household help.
- (c) The caregiver shall not place nonambulatory children in any room approved to accommodate only ambulatory children.
 - (1) Children whose condition becomes nonambulatory shall not remain in rooms restricted to ambulatory children.
 - (2) The licensing agency shall have the authority to require children who are accommodated in ambulatory rooms to demonstrate that they are ambulatory.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1525.25, 1530.6, and 1531, Health and Safety Code.

89420	FIRE CLEARANCE	89420
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- (a) Prior to accepting a disabled child, or deciding to continue to provide services to a child determined after placement to have a disability, the caregiver shall notify the licensing agency so that a fire clearance, approved by the local fire authority having jurisdiction, can be obtained.

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- (1) Health and Safety Code Section 13143 provides:

A fire clearance shall not be required if the foster family home is providing care for:

- (A) six or fewer ambulatory children, and/or
- (B) children two years of age or younger.

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- (b) The licensing agency shall approve postural supports only after the appropriate fire clearance has been secured.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507.2, 1531, 1531.4, and 13143, Health and Safety Code.

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89421 WATER SUPPLY CLEARANCE**89421**

- (a) Any home where water for human consumption is from a private source shall meet the following requirements:
- (1) Prior to the home accepting its first placement, the caregiver shall provide evidence of an on-site inspection of the source of the water and a bacteriological analysis which establishes the safety of the water, conducted by the local health department, the State Department of Health or a licensed commercial laboratory.
 - (2) Subsequent to placement the caregiver shall be required to provide additional analyses only when the licensing agency documents the need for an analysis to assure the health and safety of the children.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1520 and 1531, Health and Safety Code.

89465 CAREGIVER REQUIREMENTS**89465**

- (a) The licensing agency shall have the authority to require any caregiver to provide additional household help whenever the agency determines that additional help is required for the provision of necessary services to children.
- (1) The licensing agency shall specify in writing the reasons for its determination.
 - (2) The following factors shall be used in determining the need for additional staff:
 - (A) Needs of the particular children.
 - (B) Extent of the services provided by the home.
 - (C) Physical arrangements of the particular home.
 - (D) Any change in the considerations listed in Section 89231(c).
- (b) The caregiver, including additional help, shall be in good health, and shall be physically, mentally, and occupationally capable of complying with these regulations.
- (1) Good health shall be verified by a health screening, including a test for tuberculosis not more than one year old, and performed by or under the supervision of a physician.
 - (2) The report, signed by the person performing the health screening, shall indicate the following:
 - (A) The presence of any health condition that would create a hazard to the caregiver or children.

89465 CAREGIVER REQUIREMENTS (Continued)**89465**

- (c) Physician reports from general practitioners or specialists may be required after licensure if the licensing agency has reason to believe that the physical and/or mental health of the caregiver, including additional help, is not adequate to carry out responsibilities specified in these regulations.

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- (1) The licensing agency shall provide the caregiver a written explanation of the need for any additional report.
- (2) The licensing agency shall specify in writing what written information is required from the caregiver.

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- (d) All other adults regularly in the home shall have a test for tuberculosis performed not more than one year prior to or seven days after initial presence in the facility.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1507.2, 1530.6, and 1531, Health and Safety Code.

89468 ADMISSION PROCEDURES**89468**

- (a) At the time of placement for each child, the caregiver shall request from the placement worker, if it is not provided immediately, the Child's Health and Education Passport and Needs and Services Plan.
- (b) The Needs and Services Plan shall contain the following information, which includes but is not limited to:
- (1) Name.
- (2) Age.
- (3) Physical limitations.
- (4) History of infections or contagious diseases.
- (5) History of other medical, emotional, behavioral and physical problems.
- (6) Capability of the child to handle his/her own cash resources.

89468	ADMISSION PROCEDURES (Continued)	89468
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- (7) Current service needs related to (3), (4), (5), and (6) above.
- (8) Any applicable needs appraisal or individual program plans completed by a placement agency or consultant.
- (c) As soon as the Needs and Services Plan and Health Education Passport is received from the placement worker, the caregiver shall review the information and determine;
 - (1) The caregiver's ability to meet the individual needs of the child.
 - (2) The caregiver's ability to continue meeting the needs of other children and the caregiver's family.
- (d) If it is determined after review that the home cannot meet the service needs of the child, the caregiver shall:
 - (1) Inform the child's authorized representative.
 - (2) Request that the child be placed elsewhere.
- (e) The caregiver shall keep a copy of the current Needs and Services Plan, Transitional Independent Living Plan (TILP) and the health education passport and comply with the portion of the case plan provided by the placing social worker that pertains to care of the child.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1507.2, 1520, 1530.6, 1531, and 1557.5, Health and Safety Code.

89469	CHILDREN'S MEDICAL ASSESSMENTS	89469
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- (a) Within 30 days of accepting a child, the caregiver shall obtain a recent written medical assessment.
 - (1) A recent medical assessment shall not be more than a year old.
- (b) The licensing agency shall have the authority to require the caregiver to obtain a current written medical assessment, if such an assessment is necessary to verify the appropriateness of a child's placement.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1507.2, 1520, 1530.6, 1531, and 1557.5, Health and Safety Code.

89475 HEALTH RELATED SERVICES**89475**

- (a) Family health care as defined in Section 89201 shall be administered as outlined by the appropriate medical professional in writing.
 - (1) The medical professional shall provide adequate, practical and written instruction.
- (b) Any time a child is in the home, at least one of the persons providing regular and routine care and supervision to the child shall have current training in first aid and CPR. Training shall be obtained from an agency offering such training including, but not limited to, the American Red Cross, and shall be appropriate to the child's age and needs.
 - (1) The caregiver shall maintain copies of unexpired first aid and CPR certificates documenting the training required.
 - (2) The caregiver shall maintain first aid supplies appropriate to the needs of the children in care.
- (c) When a child has a health condition that requires the administration of medication, the caregiver shall:
 - (1) Assist children with self-administration as needed.
 - (2) Ensure that instructions are followed as outlined by the appropriate medical professional.
 - (3) Medication shall be stored in the original container with the original unaltered label.
 - (4) Prescription medication must be administered as per directions on the label or as advised by the physician in writing.
 - (5) Non-prescription medication must be administered as directed by the appropriate medical professional and documented by the caregiver.
 - (6) The administration of PRN medication shall also require documentation by the caregiver of the date, time and dose of medication administered.
 - (7) If the child can not determine his/her own need, the caregiver shall determine need in accordance with medical instructions.

NOTE: Authority cited: Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 1501, 1501.1, 1507, 1507.2, 1507.5, 1530.6 and 1531, Health and Safety Code; and Business and Professions Code Section 2727(a).

Article 5. SPECIAL HEALTH CARE NEEDS**89510.1 LIMITATIONS ON CAPACITY FOR SPECIALIZED FOSTER FAMILY HOMES****89510.1**

- (a) No more than two children with or without special health care needs shall reside even on a temporary basis in a specialized foster family home with the following exceptions:
- (1) A specialized foster family home may accept a third child with or without special health care needs provided that the licensed capacity, as determined by the licensing agency under Section 89228 is not exceeded, and all of the following conditions are met:
- (A) The county social worker, regional center caseworker or authorized representative responsible for the placement of the child determines the following:
1. That in the county or, if the child is a regional center client, the regional center catchment area, in which the home is physically located,
 - a. No other specialized foster family home, small family home or certified family home is available to meet the needs of the child without exceeding the two child limit; and
 - b. If the child does not have special health care needs, that no other nonspecialized foster family home, small family home or certified family home is available to meet the needs of the child.
- (B) Each child's county social worker, regional center caseworker or authorized representative determines that the specialized foster family home can meet the psychological and social needs of the child.
1. New determinations are required each time there is an increase or turnover in children and the two-child capacity limit is exceeded.
- (C) The individualized health care plan team for each child with special health care needs determines that the two-child capacity limit may be exceeded without jeopardizing the health and safety of the child.
1. New determinations are required each time there is an increase or turnover in children and the two-child capacity limit is exceeded.
- (b) A licensee shall not accept a child requiring in-home health care other than family health care, unless the child is a child with special health care needs.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5 and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 17732, 17732(a) and 17736(b), Welfare and Institutions Code and Sections 1502(a), 1507, 1507.2, 1507.5, and 1530.6, Health and Safety Code.

89510.2 PROHIBITION OF DUAL LICENSURE FOR SPECIALIZED FOSTER FAMILY HOMES**89510.2**

- (a) A foster family home caregiver shall not hold any day care, other residential or health care home license for the same premises as the foster family home while caring for children with special health care needs.
- (1) Any foster family home caregiver planning to care for a child with special health care needs who holds any license as specified in (a) above shall surrender the license prior to accepting a child with special health care needs.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5 and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001).
Reference: Section 17732, Welfare and Institutions Code and Section 1531, Health and Safety Code.

89565.1 CAREGIVER REQUIREMENTS FOR SPECIALIZED FOSTER FAMILY HOMES**89565.1**

- (a) In addition to Section 89465, the caregiver and any other person who is providing in-home health care to a child with special health care needs shall comply with the following requirements:
- (1) Prior to caring for a child with special health care needs or when the child's needs change, the in-home health care provider shall complete training in specialized in-home health care provided by a health care professional as required by the child's individualized health care plan, except when
- (A) The in-home health care provider is a licensed health care professional; and
- (B) The child's individualized health care plan team determines that completion of specialized in-home health care training for the child is unnecessary on the basis of the in-home health care provider's medical qualifications and expertise.
- (b) Any person providing care to children in a specialized foster family home shall be in good health, and shall be physically, mentally, and occupationally capable of complying with these regulations.
- (1) Good health shall be verified by a health screening, including a test for tuberculosis performed by or under the supervision of a physician not more than one year prior to or seven days after presence in the home.

89565.1 CAREGIVER REQUIREMENTS FOR SPECIALIZED FOSTER FAMILY HOMES (Continued) 89565.1

- (2) The report, signed by the person performing the health screening, shall indicate the following:
- (A) Physical qualifications to perform the duties to be assigned.
 - (B) The presence of any health condition that would create a hazard to the caregiver, children or staff.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 17731(c), Welfare and Institutions Code and Sections 1531 and 1562, Health and Safety Code.

89566 PERSONNEL RECORDS FOR SPECIALIZED FOSTER FAMILY HOMES 89566

- (a) The caregiver shall ensure that the personnel records of the caregiver and all persons subject to the requirements of Section 89565.1(a) contain the following:
- (1) For any training or additional training from which the caregiver or other in-home health care provider is exempt:
 - (A) Documentation that the child's individualized health care plan team has determined that it is not necessary for the caregiver or other in-home health care provider to complete the specialized in-home health care training or additional training.
 - 1. Documentation may be provided in different ways, including, but not limited to, a written statement from a member designated by the team that the team has been notified and has determined that the training or additional training is unnecessary.
 - (B) A copy of a valid license or certificate indicating that he/she is a licensed health care professional.
 - (2) For any training or additional training from which the caregiver or other in-home health care provider is not exempt:
 - (A) Documentation, by a health care professional providing the training, that he/she has successfully completed the specialized in-home health care training specified in Section 89565.1(a)(1).
- (b) The caregiver of a foster family home caring for children with special health care needs shall ensure that employee records contain the following information:

**89566 PERSONNEL RECORDS FOR SPECIALIZED FOSTER
FAMILY HOMES (Continued)****89566**

- (1) Employee's full name.
 - (2) Driver's License number if the employee is to transport foster children.
 - (3) Date of employment.
 - (4) A statement signed by the employee that he/she is at least 18 years of age.
 - (5) Home address and phone number.
 - (6) Past related experience, including types of employment and former employers.
 - (7) Duties of the employee.
 - (8) Termination date if no longer employed by the home.
- (c) Records of health screenings and tests for tuberculosis required by Sections 89565.1(b) and (b)(1) shall be on file.
- (d) All personnel records shall be maintained at the home and available to the licensing agency for review.
- (e) All personnel records shall be retained for at least three years following termination of employment.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 17731, Welfare and Institutions Code and Sections 1501, 1501.1, 1507, 1507.2, and 1531, Health and Safety Code.

**89569.1 INDIVIDUALIZED HEALTH CARE PLANS FOR
SPECIALIZED FOSTER FAMILY HOMES****89569.1**

- (a) The caregiver shall not accept a child with special health care needs unless the caregiver has obtained an individualized health care plan for the child. The plan shall include the following information:
- (1) The name, address, and phone number of the health care professional responsible for monitoring the child's ongoing health care.
 - (2) The appropriate number of hours of on-site supervision and monitoring, and the appropriate number of hours of off-site supervision and monitoring, needed to be provided by the monitor designated in Section 89569.1(a)(1), above.
 - (3) Documentation by the child's individualized health care plan team identifying the specialized in-home health care to be administered by a health care professional or responsible adult trained by a health care professional.
 - (4) Arrangements for in-home health support services if required.
 - (5) Specific responsibilities of the caregiver for the provision of specialized in-home health care, including any required training and/or additional training.
 - (6) Identification of any available and funded medical services that are to be provided to the child in the home which may include, but is not limited to, assistance from health care professionals.
 - (7) Identification of any psychological, emotional, behavioral, or medical problems that will be identified in the child's Needs and Services Plan or the medical assessment specified in Section 89469.
- (b) The individualized health care plan for each child with special health care needs shall be updated at least every six months or sooner if the needs of the child change.
- (c) For any child with special health care needs the hospital discharge plan may be adopted by the individualized health care plan team as the child's individualized health care plan.
- (d) The individualized health care plan may be combined with the child's needs and services plan or regional center individual program plan provided that all the information required by each plan is included.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code, Section 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 17731(c), Welfare and Institutions Code.

**89570.1 ADDITIONAL CHILDREN'S RECORDS FOR SPECIALIZED
FOSTER FAMILY HOMES****89570.1**

- (a) In addition to Section 89370, the caregiver shall ensure that records for each child with special health care needs contain the following:
- (1) Documentation that the child has been adjudged a dependent of the court under Section 300 of the Welfare and Institutions Code or has not been adjudged a dependent of the court pursuant to Section 300 but is in the custody of the county welfare department, or has a developmental disability and is receiving services and case management from a regional center.
 - (2) A copy of the child's individualized health care plan as specified in Section 89569.1.
 - (3) A copy of the written reassessment of the child's individualized health care plan as specified in Section 89569.1(b).
- (b) The caregiver of a specialized foster family home not exceeding the two-child capacity limit shall ensure that each child's Needs and Services Plan contains the following information in addition to the information required in Section 89468.
- (1) Documentation by the child's county social worker, regional center caseworker or authorized representative that the needs of the child can be met by the home.
 - (A) New documentation shall be obtained for all children and placed in the respective Needs and Services Plans each time there is an increase or turnover in children and the home meets the conditions described in above Section 89570.1(b).

**89570.1 ADDITIONAL CHILDREN'S RECORDS FOR SPECIALIZED
FOSTER FAMILY HOMES (Continued)****89570.1**

- (c) If a third child is placed in a specialized foster family home, the caregiver shall ensure that:
- (1) The Needs and Services Plan for the third child documents the determination specified in Section 89510.1(a)(1)(A).
 - (2) The Needs and Services Plan for each child in the home documents the determinations specified in Sections 89510.1(a)(1)(B) and (B)1.
 - (3) The individualized health care plan for each child with special health care needs documents the determinations specified in Sections 89510.1(a)(1)(C) and (C)1.
 - (A) Documentation may be provided in different ways, including, but not limited to, a written statement from a member designated by the team that the team has been notified and has determined that the two-child limit may be exceeded.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Sections 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 17710, 17731, and 17732(a), Welfare and Institutions Code and Section 1531, Health and Safety Code.

**89572.2 PERSONAL RIGHTS FOR CHILDREN WITH SPECIAL
HEALTH CARE NEEDS****89572.2**

- (a) Except as specified in this section, Section 89372(a)(8) shall not apply to children with special health care needs.
- (b) In addition to Section 89372, but notwithstanding Section 89372(c)(19), a child with special health care needs has the right to be free from any restraining/postural support device imposed for purposes of discipline or convenience, and not required to treat the child's specific medical symptoms.
 - (1) Physical restraining devices may be used for the protection of a child with special health care needs during treatment and diagnostic procedures such as, but not limited to, intravenous therapy or catheterization procedures. The restraining device, which shall not have a locking device, shall be applied for no longer than the time required to complete the treatment and shall be applied in conformance with the child's individualized health care plan. The child's individualized health care plan shall include all of the following:
 - (A) The specific medical symptom(s) that require use of the restraining device.

89572.2 PERSONAL RIGHTS FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS (Continued)**89572.2**

- (B) An evaluation of less restrictive therapeutic interventions and the reason(s) for ruling out these other practices as ineffective.
- (C) A written order by the child's physician. The order must specify the duration and circumstances under which the restraining device is to be used.
- (2) Postural supports as specified in Sections 89372(c)(19)(A), half-bedrails, and protective devices as specified in Section 89372(c)(19)(F), may be used if prescribed in the individualized health care plan. The use of a postural support or protective device and the method of application shall be specified in the child's individualized health care plan and approved in writing by the child's physician.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Section 1530, Health and Safety Code; Section 16001.9, Welfare and Institutions Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Sections 16001.9, 17730 and 17736, Welfare and Institutions Code.

89587.1 ADDITIONAL BUILDINGS AND GROUNDS REQUIREMENTS FOR SPECIALIZED FOSTER FAMILY HOMES**89587.1**

- (a) Areas in the home, including bedrooms, bathrooms, toilets, dining areas, passageways and recreational spaces used by a child with special health care needs shall be large enough to accommodate any medical equipment needed by the child therein.
 - (1) Bedrooms occupied by children with special health care needs shall be large enough to allow the storage of each child's personal items and any required medical equipment or assistive devices, including wheelchairs, adjacent to the child's bed.
 - (A) The bedroom shall be large enough to permit unobstructed bedside ministrations of medical procedures and medications.
- (b) Notwithstanding Section 89387(a)(1), a bedroom used by a child with special health care needs shall not be shared with another minor residing in the home if the child's need for medical services or the child's medical condition would be incompatible with the use and enjoyment of the bedroom by each minor.
- (c) When required by the child's individualized health care plan, the caregiver(s) or other adult caring for the child shall sleep in a bedroom adjacent or in close proximity to the child's room.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code; Section 1530, 1530.5, and 1531, Health and Safety Code; and Section 21 of Assembly Bill (AB) 1695 (Chapter 653, Statutes of 2001). Reference: Section 17732, Welfare and Institutions Code.

87007.1	CERTIFIED LICENSE PENDING HOMES	87007.1
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1505, Health and Safety Code; and Sections 362, 362.5, 727 and 17710(i), 17736, and 17736(b), Welfare and Institutions Code.

87012	FALSE CLAIMS	87012
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(a) Renumbered to Section 89388(b) by Manual Letter No. CCL-02-03, effective 7/1/02.

(b) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1508 and 1531, Health and Safety Code.

87022	PLAN OF OPERATION	87022
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1512, 1520 and 1531, Health and Safety Code.

87023	DISASTER AND MASS CASUALTY PLAN	87023
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1520 and 1531, Health and Safety Code.

87025	BONDING	87025
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1525.5, 1560 and 1561, Health and Safety Code.

87030	PROVISIONAL LICENSE	87030
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Section 1525.5, Health and Safety Code.

87032	TERM OF AN INITIAL OR RENEWAL LICENSE	87032
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Repealed by Manual Letter No. CCL-01-09, effective 6/29/01.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1524 and 1525, Health and Safety Code.

87033	APPLICATION FOR RENEWAL OF LICENSE	87033
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Repealed by Manual Letter No. CCL-01-09, effective 6/29/01.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1524 and 1525, Health and Safety Code.

87036	APPLICATION/ANNUAL PROCESSING FEE	87036
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(a) Renumbered to Section 89218(f) by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1524, Health and Safety Code.

87041	DENIAL OF A RENEWAL LICENSE	87041
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Repealed by Manual Letter No. CCL-01-09, effective 6/29/01.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1520, 1524, 1525, 1526 and 1531.5, Health and Safety Code.

87043	LICENSEE/APPLICANT COMPLAINTS	87043
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

Article 5. ENFORCEMENT PROVISIONS

Article Title repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

87051	SERIOUS DEFICIENCIES	87051
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

HANDBOOK BEGINS HERE

(a) Renumbered to Handbook Section 89252(e) by Manual Letter No. CCL-02-03, effective 7/1/02.

HANDBOOK ENDS HERE

NOTE: Authority cited: Section 17730, Welfare and Institutions Code and Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87053	FOLLOW-UP VISITS TO DETERMINE COMPLIANCE	87053
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(a) Renumbered to Section 89252(d)(6) by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1534 and 1553, Health and Safety Code.

87064	LICENSEE DUTIES AND RESPONSIBILITIES	87064
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(a) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(b) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(c) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(1) Renumbered to Section 89387(f) by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1507.5 and 1531, Health and Safety Code.

87064.1	LICENSEE DUTIES AND RESPONSIBILITIES FOR FOSTER FAMILY HOMES CARING FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS	87064.1
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Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.

87068	ADMISSION AGREEMENTS	87068
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1512, 1524.7, and 1531, Health and Safety Code.

87068.2	NEEDS AND SERVICES PLAN	87068.2
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(a) through (d)(1) Renumbered to Sections 89468(a) and (b) by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1507.5 and 1531, Health and Safety Code.

87068.3	MODIFICATIONS TO NEEDS AND SERVICES PLAN	87068.3
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87068.4	NEEDS AND SERVICES PLAN FOR FOSTER FAMILY HOMES CARING FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS	87068.4
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Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.

87070	CHILDREN'S RECORDS	87070
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87072	PERSONAL RIGHTS	87072
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(a) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(1) through (6) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(7) et. seq. Renumbered to Section 89372(c) et seq. except (7)(D) which was renumbered to Section 89222(b) by Manual Letter No. CCL-02-03, effective 7/1/02.

(8) through (16) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(b) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(c) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87072.1	DISCIPLINE	87072.1
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87074	TRANSPORTATION	87074
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

87075	HEALTH RELATED SERVICES	87075
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(a) through (c) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(d) Renumbered to Section 89475(c) by Manual Letter No. CCL-02-03, effective 7/1/02.

(e) through (f) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(g) Renumbered to Section 89475(b) by Manual Letter No. CCL-02-03, effective 7/1/02.

(h) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

(i) Renumbered to Section 89475(a) by Manual Letter No. CCL-02-03, effective 7/1/02.

(j) through (n) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501, 1507, 1507.5, 1530.6 and 1531, Health and Safety Code; and Business and Professions Code Section 2727(a).

87075.1	HEALTH RELATED SERVICES FOR FOSTER FAMILY HOMES CARING FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS	87075.1
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Repealed by Manual Letter No. CCL-97-09, effective 6/13/97.

87076	FOOD SERVICE	87076
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Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

Article 7. PHYSICAL ENVIRONMENT

Article Title repealed by Manual Letter No. CCL-02-03, effective 7/1/02.

87088	FIXTURES, FURNITURE, EQUIPMENT, AND SUPPLIES (Continued)	87088
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- (a) Renumbered to Section 89387(h) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (b) Renumbered to Section 89387(a)(5) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (c) Renumbered to Section 89387(a)(7) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (d) Renumbered to Section 89387(i) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (e) Renumbered to Section 89387(j) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (f) Renumbered to Section 89387(k) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (g) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.
- (h) Renumbered to Section 89387(l) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (i) Renumbered to Section 89387(m) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (j) Renumbered to Section 89387(n) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (k) Repealed by Manual Letter No. CCL-02-03, effective 7/1/02.
- (l) Renumbered to Section 89387(a)(6) by Manual Letter No. CCL-02-03, effective 7/1/02.
- (m) Renumbered to Section 89387(o) by Manual Letter No. CCL-02-03, effective 7/1/02.

NOTE: Authority cited: Sections 1530 and 1530.5, Health and Safety Code. Reference: Sections 1501 and 1531, Health and Safety Code.

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